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## PART IV

### Section 1-A

### BILLS INTRODUCED IN THE CENTRAL LEGISLATURE WHICH IF ENACTED WILL APPLY TO MYSORE AND THE REPORTS OF SELECT COMMITTEES IF ANY, THEREON.

NOTIFICATION.

No. R.L. 883—Legis. 30-49-2, dated Bangalore, 27th December 1949.

Ordered that the accompanying Foreign Exchange Regulation (Amendment) Bill, 1949, (51 of 1949) published in the *Gazette of India*, dated 3rd December 1949 be republished in the *Mysore Gazette* for general information.

By Order,
B. S. PUTTASWAMY,
*Legal Remembrancer and Secretary to Government, Law Department.*

# PART V.

## Bills introduced in the Constituent Assembly of India (Legislative), Reports of Select Committees presented to the Constituent Assembly of India (Legislative) and Bills published under Rule 39 of the Constituent Assembly (Legislative) Rules of Procedure and Conduct of Business.

GOVERNMENT OF INDIA.

## CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE).

The following Bill was introduced in the Constituent Assembly of India (Legislative), on the 29th November, 1949 :—

### A. BILL No. 51 OF 1949.

*A Bill further to amend the Foreign Exchange Regulation Act, 1947.*

WHEREAS it is expedient further to amend the Foreign Exchange Regulation Act, 1947 (VII of 1947), for the purposes hereinafter appearing;

It is hereby enacted as follows :—

**1. Short title.**—This Act may be called the Foreign Exchange Regulation (Amendment) Act, 1949.

**2. Amendment of section 1, Act VII of 1947.**—For sub-section (*2*) of section 1 of the Foreign Exchange Regulation Act, 1947 (hereinafter referred to as the said Act), the following sub-section shall be substituted, namely :—

"(*2*) It extends to the whole of India, except the State of Jammu and Kashmir, and applies also to citizens of India other than the subjects of the said State, wherever they may be."

**3. Amendment of section 2, Act VII of 1947.**—Section 2 of the said Act shall be renumbered as sub-section (*1*), and—

(*i*) in clause (*k*) of sub-section (*1*), as so renumbered, for the words and figures "Indian Securities Act, 1920", the words and figures "Public Debt Act, 1944 (XVIII of 1944)" shall be substituted;

(*ii*) after sub-section (*1*), as so renumbered, the following sub-sections shall be inserted, namely :—

"(*2*) the term 'India', where it occurs in sub-section (*1*) of section 4, for the first time in sub-section (*1*) of section 5, sub-section (*3*) of section 6, sub-section (*3*) of section 7,

section 8, section 9, section 11, sub-section (*1*) of section 12, section 13 otherwise than in the expression 'outside India', sub-sections (*1*) and (*5*) of section 14, section 15, for the first time in sub-section (*1*) of section 17 and in sub-sections (*1*) and (*2*) of section 18, clause (*c*) of sub-section (*1*) of section 20 otherwise than in the expression 'who leaves India', and section 21, does not include the territories of the State of Jammu and Kashmir.

(*3*) In the application of this Act to any Acceding State any reference to an enactment which does not extend to that State shall, unless the context otherwise requires, be construed as a reference to the corresponding enactment, if any, for the time being in force in that State."

**4. Amendment of sections 4 to 21, Act VII of 1947.**—In sections 4 to 9, 11 to 15, 17, 18, 20 and 21 of the said Act, for the words "the Provinces" wherever they occur, the word "India" shall be substituted.

**5. Amendment of section 18, Act VII of 1947.**—In section 18 of the said Act,—

(*i*) in sub-section (*1*), the words "or the United Kingdom" shall be omitted; and

(*ii*) in sub-section (*2*), the words "United Kingdom or" shall be omitted.

**6. Amendment of section 23, Act VII of 1947.**—In section 23 of the said Act,—

(*i*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*2*) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (Act V of 1898), it shall be lawful for any Magistrate of the first class, specially empowered in this behalf by the Provincial Government or, as the case may be, the Government of the Acceding State, and for any Presidency Magistrate to pass a sentence of fine exceeding one thousand rupees on any person convicted of an offence punishable under this section."; and

(*ii*) the existing sub-sections (*2*) and (*3*) shall be renumbered as sub-sections (*3*) and (*4*), respectively.

**7. Repeal and saving.**—(*1*) The Foreign Exchange Regulation (Amendment) Ordinance, 1949 (X of 1949), is hereby repealed.

(*2*) If immediately before the commencement of this Act there is in force in any of the Acceding States, to which the Foreign Exchange Regulation Act, 1947 (VII of 1947) now extends, any law

corresponding to that Act, such corresponding law shall upon the commencement of this Act stand repealed.

(3) Notwithstanding the repeal by this Act of the Foreign Exchange Regulation (Amendment) Ordinance, 1949, or of any corresponding law in force in any Acceding State, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance or corresponding law shall be deemed to have been done or taken in the exercise of the powers conferred by or under the Foreign Exchange Regulation Act, 1947, as amended by this Act, as if that Act as so amended were in force on the day on which such thing was done or action was taken.

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## STATEMENT OF OBJECTS AND REASONS.

Section 23 of the Foreign Exchange Regulation Act, 1947 (VII of 1947) gave trying magistrates power to impose fines up to Rs. 1,000 for offences in contravention of the said Act. The Foreign Exchange Regulation (Amendment) Ordinance, 1949 (X of 1949), promulgated on the 11th June, 1949, extended these powers without any limit. It is now sought to convert this Ordinance into an Act.

2. The opportunity is also being taken to extend the Act to all Acceding States.

3. The Bill also seeks to amend section 18 of the said Act, so as to withdraw the preferential treatment granted to United Kingdom companies and individuals under this section. Such facilities are not granted to companies or individuals of any other country, and these provisions were made in 1947 in favour of United Kingdom companies and individuals in view of Chapter III of Part V of the Government of India Act, as it then existed, which required that no discrimination be made between Indian and United Kingdom commercial interests. As these provisions of the Government of India Act, 1935, have already been omitted in the adapted Act, consequential amendments are now made to the Foreign Exchange Regulation Act.

JOHN MATTHAI.

NEW DELHI;

*The 19th November*, 1949.

## NOTIFICATION.

No. R.L. 881—Legis. 30-49-3, dated Bangalore, 27th December 1949.

Ordered that the accompanying Explosives (Temporary Provisions) Bill, 1949 (55 of 1949) and the Cinematograph (Second Amendment) Bill, 1949 (59 of 1949) published in the Gazette of India, dated 10th December 1949 be re-published in the *Mysore Gazette* for general information.

By Order,
B. S. PUTTASWAMY,
*Legal Remembrancer and Secretary to Government, Law Department.*

## A. BILL No. 55 OF 1949.

*A Bill to provide for the exemption for a limited period of operations affecting ammunition, explosives or inflammable substances from certain restrictions and for the regulation of those operations.*

WHEREAS it is expedient to provide for the exemption for a limited period of the loading, unloading, handling, storage or conveyance of ammunition, explosives or inflammable substances from certain restrictions and for the regulation of those operations in the interests of safety;

It is hereby enacted as follows:—

**1. Short title, extent, commencement and duration.**—(*1*) This Act may be called the Explosives (Temporary Provisions) Act, 1949.

(*2*) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.

(*3*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf and shall remain in force thereafter for a period of two years only.

**2. Powers in respect of ammunition, explosives or inflammable substances.**—(*1*) If the Central Government considers it necessary or expedient so to do, it may, by notification in the official Gazette, declare that such restrictions imposed by or under any law for the time being in force, as may be specified in the declaration shall not apply to the loading, unloading, handling, storage or conveyance of ammunition, explosives or inflammable substances in such circumstances as may be so specified.

(2) When a declaration has been made under sub-section (1), the Central Government or any authority authorised by it in writing in this behalf, may by order make such provision as appears to it to be required in the interests of safety for regulating the loading, unloading, handling, storage or conveyance of ammunition, explosives or inflammable substances to which the declaration relates.

(3) Any declaration or order made under this section shall apply only to the port of Vizagapatam and to railways over which ammunition, explosives or inflammable substances are carried to or from that port.

**3. Effect of declaration or order.**—Any declaration or order made under section 2 shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force and no such declaration or order shall be called in question in any Court.

**4. Penalty.**—If any person contravenes any order made under sub-section (2) of section 2, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

**5. Protection of action taken.**—(1) No suit or other legal proceeding shall lie against the Central Government for any damage caused or likely to be caused by anything in good faith done or intended to be done under this Act or any declaration or order made thereunder.

(2) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any declaration or order made thereunder.

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## STATEMENT OF OBJECTS AND REASONS.

The handling of ammunition, explosives and dangerous cargoes in large quantities at dock berths is not allowed at the major ports of India under the normal port rules, except in very small quantities. At the end of the war, large stocks of ammunition became surplus to requirements, and in the interests of safety it was considered essential that these stocks should be drowned at sea with the least possible delay. As the port rules are too restrictive for quick disposal, a Bill was moved in 1947 to facilitate the operations at the ports of Karachi and Vizagapatam. The dumping programme of drowning surplus ammunition had, however, to be postponed on account of transport difficulties, danger of pilferage and other reasons during the troubled period after partition, and considerable quantities of ammunition still remain to be disposed of. The object of the present Bill is to facilitate the operations at the port of Vizagapatam under adequate

safeguards, and also to provide for import and export, when necessary, under the same precautions. The Bill is intended to remain in force for a period not exceeding two years.

N. V. GADGIL.

NEW DELHI,
*The 24th November* 1949.

The following Bill was introduced in the Constituent Assembly of India (Legislative) on the 7th December, 1949 :—

A. BILL* No 59 OF 1949.

*A Bill further to amend the Cinematograph Act*, 1918.

WHEREAS it is expedient further to amend the Cinematograph Act, 1918 (II of 1918), for the purposes hereinafter appearing;

It is hereby enacted as follows :—

**1. Short title and commencement.**—(*1*) This Act may be called the Cinematograph (Second Amendment) Act, 1949.

(*2*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

**2. Amendment of section 1, Act II of 1918.**—In section 1 of the Cinematograph Act, 1918 (hereinafter referred to as the said Act), for sub-sections (*2*) and (*3*), the following sub-section shall be substituted, namely :—

"(*2*) It extends to all the Provinces of India and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act."

**3. Amendment of section 2, Act, II of 1918.**—In section 2 of the said Act,—

(*i*) after the definition of 'adult' the following definition shall be inserted, namely,

"Authority" means the Authority constituted by the Central Government under section 6; and

(*ii*) in the definition of "place," for the words "tent or vessel," the words "tent or any description of transport, whether by sea, land or air," shall be substituted.

*In pursuance of the proviso to sub-section (2) of section 126 of the Government of India Act, 1935, the Governor-General has been pleased to give his previous sanction to the introduction of the Bill in the Constituent Assembly of India (Legislative).

**4. Insertion of new section 2A in Act II of 1918.**—After section 2 of the said Act, the following section shall be inserted, namely :—

"2A. *Rule of construction in the Application of Act to Acceding States.*—In the application of this Act to any Acceding State, unless there is anything repugnant in the subject or context,—

(*a*) references to a Province or the Provincial Government shall be construed as references to that Acceding State or the Government of that Acceding State, as the case may be;

(*b*) references to the District Magistrate shall be construed as references to the corresponding authority in the Acceding State; and

(*c*) references to the official Gazette shall be construed as references to the corresponding official publication of that State."

**5. Amendment of section 5, Act II of 1918.**—For sub-sections (*2*) and (*2A*) of section 5 of the said Act, the following sub-sections shall be substituted, namely :—

"(*2*) The grant of every licence shall be subject to the conditions that the licensee will not exhibit, or permit to be exhibited, in such place—

(*a*) any film other than a film which has been certified by the Authority as suitable for unrestricted public exhibition or for public exhibition restricted to adults, and which, when exhibited, displays the prescribed mark of that authority, and has not been altered or tampered with in any way since such mark was affixed thereto;

(*b*) any film which has been certified by the Authority as suitable for public exhibition restricted to adults to any person who is not an adult;

(*c*) any film contrary to any directions that may be issued from time to time in this behalf by the Central Government under sub-section (*2A*),

and such conditions shall be deemed to be inserted in every licence.

(*2A*) The Central Government may from time to time issue directions to licensees generally, or to any licensee, in particular, for the purpose of regulating the exhibition of any film or class of films so that scientific films, films intended for educational purposes, films dealing with news and current events, documentary films or indigenous films secure an adequate opportunity of being exhibited."

**6. Substitution of new sections for sections 6 to 9, Act II of 1918.**—For sections 6, 7, 8 and 9 of the said Act, the following sections shall be substituted, namely:—

"6. *Certification of films.*—(1) The Central Government may, by notification in the official Gazette, constitute an Authority in the prescribed manner for the purpose of examining and certifying films as suitable for unrestricted public exhibition or for public exhibition restricted to adults, and prescribe the manner in which the Authority shall exercise the powers conferred on it by this Act.

(2) If the Authority after examination considers that a film is suitable for unrestricted public exhibition or that, although not suitable for such exhibition, it is suitable for public exhibition restricted to adults, it shall grant to the person applying for a certificate in respect of the film a "U" certificate in the former case and an "A" certificate in the latter case, and shall in either case cause the film to be so marked in the prescribed manner, and any such certificate shall, save as hereinafter provided, be valid throughout the territories to which this Act extends.

(3) If the Authority is of opinion that a film is neither suitable for unrestricted public exhibition nor for public exhibition restricted to adults, it shall inform the person applying for the certificate of its decision.

(4) Any person applying for a certificate, who is aggrieved by the decision of the Authority refusing to grant a certificate or to grant only an "A" certificate, may, within thirty days from the date of such decision, appeal to the Central Government, and the Central Government may, after such inquiry as it considers necessary, pass such orders thereon as it thinks fit.

(5) If the Central Government rejects an appeal on the ground that a film is neither suitable for unrestricted public exhibition nor for public exhibition restricted to adults, it shall, by notification in the official Gazette, direct that the film shall be deemed to be an uncertified film in the whole of the territories to which this Act extends.

(6) For the purpose of disposing of any appeal under this section, the Central Government may demand the exhibition before any authority specified in this behalf of any film.

(7) Notwithstanding anything contained in this Act, the Central Government may, of its own motion, by notification in the official Gazette, direct that—

(*a*) a certified film shall be deemed to be an uncertified film in the whole or any part of the territories to which this Act extends, or

(*b*) a film in respect of which a "U" certificate has been granted shall be deemed to be a film in respect of which an "A" certificate has been granted.

*Explanation.*—The grant of an "A" certificate in respect of any film shall not be deemed to prohibit the exhibition thereof to children below the age of three.

7. *Power of Provincial Government or local authority to suspend certificates in certain cases.*—(1) The Provincial Government, in respect of the whole Province or any part thereof, and the District Magistrate or the Commissioner of Police, in respect of the district or town within his jurisdiction, may, if it or he is of opinion that any film, which is being publicly exhibited, is likely to cause a breach of the peace, by order suspend the certificate of any film, and during such suspension the film shall be deemed to be an uncertified film in the Province or the district or town, as the case may be.

(2) Where an order under sub-section (1) has been issued by a District Magistrate or a Commissioner of Police, a copy thereof, together with a statement of reasons therefor, shall forthwith be forwarded by the person making the same to the Provincial Government, and the Provincial Government may either confirm or discharge the order.

(3) No order made under this section shall remain in force for more than two months, but the Provincial Government may, if it is of opinion that any such order should continue in force for a further period, refer the matter to the Central Government for decision.

(4) On receipt of any reference under sub-section (3), the Central Government may, by notification in the official Gazette, direct that the period of suspension shall be extended by such further period as it thinks fit or that the film shall be deemed to be an uncertified film in the whole or any part of the territories to which this Act extends.

8. *Penalties.*—(1) If the owner or person in charge of a cinematograph uses the same or allows it to be used, or if the owner or occupier of any place permits that place to be used, in contravention of the provisions of this Act or the rules made thereunder, or of the conditions and restrictions upon, or subject to, which any licence has been granted under this Act, he shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing offence, with a further fine which may extend to one hundred rupees for each day during which the offence continues, and his licence, if any, shall be liable to be revoked by the licensing authority.

(2) The exhibition of a film contrary to any order or direction under sub-section (5) or sub-section (7) of section 6 or section 7 shall, in the area to which such order or direction relates, be deemed to be a contravention of the conditions mentioned in sub-section (2) of section 5 and shall be punishable as provided in this section.

(3) If any person is convicted of an offence punishable under this Act committed by him in respect of any film, the convicting Court may further direct that the film shall be forfeited to the Government.

**9.** *Power to make rules.*—(1) The Central Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for—

(*a*) the manner in which the Authority shall be constituted;

(*b*) the delegation of any of the powers of the Authority to such person or persons as the Authority may nominate in this behalf;

(*c*) the procedure of the Authority for examining and certifying films as suitable for public exhibition, and all matters ancillary thereto and the fees to be levied by such Authority;

(*d*) the appointment of officers subordinate to the Authority and the regulation of the powers and duties of such officers;

(*e*) the conditions subject to which any certificate may be granted under this Act or the circumstances in which any certificate shall be refused;

(*f*) the manner in which any appeal under this Act may be preferred;

(*g*) any other matter which by this Act is to be prescribed.

(3) The Provincial Government may make rules to provide for the regulation of cinematograph exhibitions for securing the public safety.

(4) All rules made under this Act shall be published in the official Gazette, and on such publication shall have effect as if enacted in this Act.

**10.** *Power to give directions.*—The Central Government may give directions to any Provincial Government as to the carrying into execution in the Province of any of the provisions contained in this Act or of any rules or orders made thereunder.

**11.** *Power to exempt.*—The Central Government may, by order in writing exempt, subject to such conditions and restrictions as it may impose, any cinematograph exhibition or class of cinematograph exhibitions from any of the provisions of this Act or of any rule made thereunder."

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## STATEMENT OF OBJECTS AND REASONS.

The object of the Bill is to centralise censorship of films. The Government of India Act, 1935, was amended in January, 1949 to enable executive authority to be exercised by the Central Government in the Provinces in respect of the sanctioning of cinematograph films for exhibition. There are at present Provincial Boards of Films Censors, deriving authority from respective Provincial Governments and having no uniform policy. Films certified by one are thus often uncertified in other Provinces. Moreover, when copies of the same film are submitted to different Boards portions objected to by one are sometimes passed by another or films rejected in one place are passed elsewhere. With a view to remove such anomalies and to introduce uniformity in censorship which will help to raise the standard of films as a medium of education and health entertainment, it has been decided to replace the existing Provincial Boards by a single censoring Authority appointed by the Central Government. It is accordingly proposed to amend the Cinematography Act of 1918 so as to enable such an Authority to be set up.

R. R. DIWAKAR.

NEW DELHI;

*The 29th November*, 1949.

M. N. KAUL,

*Secy. to the Govt. of India.*

## NOTIFICATION.

No. RL. 773—Legis. 30-49-1, dated Bangalore, 28—29th November 1949.

Ordered that the accompanying Insurance (Amendment) Bill, 1949 (Bill No. 47 of 1949), published in the Gazette of India, Extraordinary, dated November 8, 1949, be republished in *Mysore Gazette* for general information.

By Order,

B. S. PUTTASWAMY,

*Legal Remembrancer and Secretary to Government, Law Department.*

## GOVERNMENT OF INDIA.

## CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE).

### NOTIFICATION.

*New Delhi, the 8th November*, 1949.

**No. F. 154-I/49-A.**—Under Rule 39 of the Constituent Assembly (Legislative) Rules of Procedure and Conduct of Business, the Governor-General has been pleased to order the publication in the Gazette of India of the following Bill, together with the Statement of Objects and Reasons relating thereto, and the Bill and the Statement of Objects and Reasons are accordingly published for general information:—

### A BILL No. 47 OF 1949.

*A Bill further to amend the Insurance Act*, 1938.

WHEREAS it is expedient further to amend the Insurance Act, 1938 (IV of 1938), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

**1. Short title and commencement.**—(*1*) This Act may be called the Insurance (Amendment) Act, 1949.

(*2*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, and different dates may be appointed for different provisions of this Act.

**2. Amendment of section 1, Act IV of 1938.**—For sub-section (*2*) of section 1 of the Insurance Act, 1938 (hereinafter referred to as the said Act), the following sub-section shall be substituted, namely:—

"(*2*) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act."

**3. Amendment of section 2, Act IV of 1938.**—In section 2 of the said Act,—

(*1*) for clause (*3*), the following clause shall be substituted, namely:—

'(*3*) "approved securities" means—

(*i*) Government securities and other securities charged on the revenues of the Central Government or of a Provincial Government, or guaranteed fully as regards principal and interest by the Central Government, any Provincial Government, the Secretary of State in Council or the Secretary of State;

(*ii*) debentures or other securities for money issued under the authority of any Central Act or Act of a Legislature established in a Province by or on behalf of a port trust or municipal corporation or city improvement trust in any Presidency-town;

(*iii*) shares of a corporation established by law and guaranteed fully by the Central Government or a Provincial Government as to the repayment of the principal and the payment of dividend;

(*iv*) securities issued or guaranteed fully as regards principal and interest by the Government of any Acceding State or other Indian State and specified as approved securities for the purposes of this Act by the Central Government by notification in the official Gazette; and

(*v*) subject to the limitations contained in the proviso hereto, securities guaranteed fully as regards principal and interest by a Provincial Government in Pakistan or charged on the revenues of any part of that Dominion, and debentures or other securities for money issued by or on behalf of the trustees of the port of Karachi:

Provided that securities or debentures specified in item (*v*) shall be recognised as approved securities only for such purposes and for such period and subject to such conditions as may be prescribed.';

(*2*) for clause (*4*), the following clause shall be substituted, namely:—

'(*4*) "auditor" means a person qualified under the Chartered Accountants Act, 1949 (XXXVIII of 1949) to act as an auditor of companies;';

(3) after clause (4), the following clause shall be inserted, namely:—

'(4A) "banking company" and "company" shall have the meanings respectively assigned to them in clauses (c) and (d) of sub-section (1) of section 5 of the Banking Companies Act, 1949 (X of 1949);';

(4) after clause (5), the following clauses shall be inserted, namely:—

'(5A) "chief agent" means a person who, not being a salaried employee of an insurer, in consideration of any commission—

(i) performs any administrative and organising functions for the insurer, and

(ii) procures life insurance business for the insurer by employing or causing to be employed insurance agents on behalf of the insurer.

(5B) "Controller-General of Insurance" or "Controller-General" means the officer appointed by the Central Government to perform the duties of the Controller-General of Insurance under this Act;';

(5) after clause (6), the following clauses shall be inserted, namely:—

'(6A) "fire insurance business" means the business of effecting, otherwise than incidentally to some other class of insurance business, contracts of insurance against loss by or incidental to fire or other occurrence customarily included among the risks insured against in fire insurance policies;

(6B) "general insurance business" means fire, marine or miscellaneous insurance business, whether carried on singly or in combination with one or more of them;';

(6) for clause (7), the following clause shall be substituted, namely:—

'(7) "Government security" means a Government security as defined in the Public Debt Act, 1944 (XVIII of 1944);';

(7) in clause (9), for the words "but does not include an insurance agent licensed under section 42" the words "but does not include a principal agent, chief agent, special agent, or an insurance agent" shall be substituted;

(8) in clause (10), the following words shall be added at the end, namely:—

"including business relating to the continuance, renewal or revival of policies of insurance;";

(*9*) after clause (*10*), the following clause shall be inserted, namely:—

(*10A*) "investment company" means a company whose principal business is the acquisition of shares, stocks, debentures or other securities;';

(*10*) for clause (*11*), the following clause shall be substituted, namely:—

'(*11*) "life insurance business" means the business of effecting contracts of insurance upon human life, including any contract whereby the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, and any contract which is subject to payment of premiums for a term dependent on human life and shall be deemed to include—

(*a*) the granting of disability and double or triple indemnity accident benefits, if so provided in the contract of insurance;

(*b*) the granting of annuities upon human life; and

(*c*) the granting of superannuation allowances and annuities payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment or of the dependents of such persons;';

(*11*) after clause (*13*), the following clauses shall be inserted, namely:

'(*13A*) "marine insurance business" means the business of effecting contracts of insurance upon vessels of any description, including cargoes, freights and other interests which may be legally insured, in or in relation to such vessels, cargoes and freights, goods, wares, merchandise and property of whatever description insured for any transit by land or water, or both, and whether or not including warehouse risks or similar risks in addition or as incidental to such transit, and includes any other risks customarily included among the risks insured against in marine insurance policies;

(*13B*) "miscellaneous insurance business" means the business of effecting contracts of insurance which is not principally or wholly of any kind or kinds included in clauses (*6A*), (*11*) and (*13A*);';

(*12*) for clause (*15*), the following clauses shall be substituted, namely:—

'(*15*) "principal agent" means a person who, not being a salaried employee of an insurer, in consideration of any commission,—

(*i*) performs any administrative and organising functions for the insurer,

(*ii*) procures general insurance business by employing or causing to be employed insurance agents on behalf of the insurer, and

(*iii*) accepts proposals, signs and issues cover-notes, policies or renewal receipts in respect of such insurance business under authority in writing granted to him by the insurer;

(*16*) "private company" and "public company" have the meanings respectively assigned to them in clauses (*13*) and (*13A*) of section 2 of the Indian Companies Act, 1913 (VII of 1913);

(*17*) "special agent" means a person who, not being a salaried employee of an insurer, in consideration of any commission, procures life insurance business for the insurer, by employing or causing to be employed insurance agents on behalf of the insurer, but does not include a chief agent.'

**4. Amendment of certain sections in Act IV of 1938.**—In sections other than section 2 of the said Act, for the words "Superintendent of Insurance" and "Superintendent" (occurring otherwise than in the expression "Superintendent of Insurance"), the words "Controller-General of Insurance" and "Controller-General" shall respectively be substituted.

**5. Insertion of new sections 2A and 2B in Part I, Act IV of 1938.**—In Part I, after section 2 of the said Act, the following sections shall be inserted namely:—

'2A. *Rule of construction in applying Act to Acceding State.*—In the application of this Act to any Acceding State, unless there is anything repugnant in the subject or context,—

(*1*) references to the Provinces or Provinces of India or to any Province of India shall be construed as references to that Acceding State;

(*2*) references to any Provincial Government shall be construed as references to the Government of that Acceding State; and

(*3*) references to any enactment in force in the Provinces of India but not in force in that Acceding State shall be construed as references to the corresponding enactment, if any, in force in that State.

2B. *Appointment and duties of Controller-General of Insurance.*—The Central Government may, by notification in the official Gazette, appoint a person to be the Controller-General of Insurance, who shall perform the duties of the Controller-General of Insurance under this Act.'

**6. Insertion of new section 2C in Part II, Act IV of 1938.**—In Part II of the said Act, sections 2A and 2B shall be re-numbered as sections

2D and 2E, and before the sections as so re-numbered, the following section shall be inserted, namely :—

"2C. *Prohibition of transaction of insurance business by certain persons.*—Save as hereinafter provided, no person shall, after the commencement of the Insurance (Amendment) Act, 1949, begin to carry on any class of insurance business in the Provinces, and no insurer carrying on any class of insurance business in the Provinces shall, after the expiry of one year from such commencement, continue to carry on any such business unless he is—

(*a*) a public company, or

(*b*) a society registered under the Co-operative Societies Act, 1912 (II of 1942), or under any other law for the time being in force in any Province of India relating to co-operative societies, or

(*c*) a body corporate incorporated under the law of any country or State outside the Provinces of India:

Provided that the Central Government may, by notification in the official Gazette, exempt to such extent, for such period and subject to such conditions as it may specify, any person or insurer from the operation of this section for the purpose of carrying on the business of granting superannuation allowances and annuities of the nature specified in sub-clause (*c*) of clause (*11*) of section 2 or for the purpose of carrying on any general insurance business."

**7. Amendment of section 3, Act IV of 1938.**—In section 3 of the said Act,—

(*1*) in sub-section (*4*),—

(*i*) for clause (*f*), the following clause shall be substituted, namely :—

"(*f*) if the insurer makes default in complying with, or acts in contravention of, any requirement of this Act or of any rule or order made thereunder, or";

(*ii*) for clause (*h*), the following clause shall be substituted, namely :—

"(*h*) if the insurer carries on any business other than insurance business or any prescribed business";

(*2*) in sub-section (*5C*) for the words, figure and letter "or that he has complied with the order under section 3B" the words "or that he has complied with any requirement of this Act or of any rule or order made thereunder or that he has ceased to carry on any business other than insurance business or any prescribed business" shall be substituted;

(*3*) in sub-section (*6*), for the figures and word "5, 10 and 32", the figures, letters and word "2C, 5, 6A, 10(*2A*), 31A and 32" shall be substituted.

**8. Amendment of section 4, Act IV of 1938.**—In sub-section (*1*) of section 4 of the said Act, for the words and figures "the Insurance Act, 1938" the words "this Act" shall be substituted.

**9. Insertion of new sections 6A, 6B, and 6C in Act IV of 1938.**—After section 6 of the said Act, the following sections shall be inserted, namely :—

"6A. *Requirements as to capital structure and voting rights and maintenance of registers of beneficial owners of shares.*—(*1*) No public company limited by shares having its registered office in any Province of India, shall after the expiry of one year from the commencement of the Insurance (Amendment) Act, 1949, carry on life insurance business, unless it satisfies all the following conditions, namely :—

(*i*) that the capital of the company consists only of ordinary shares each of which has a single face value ;

(*ii*) that, except during any period not exceeding one year allowed by the company for payment of calls on shares, the paid-up amount is the same for all shares, whether existing or new ;

(*iii*) that the voting right of every shareholder of the company is strictly proportionate to the number of shares held by him.

(*2*) A public company as aforesaid which carries on life insurance business—

(*a*) shall maintain, in addition to the register of members to be maintained under the Indian Companies Act, 1913 (VII of 1913), a register of shares in which shall be entered the name, occupation and address of the beneficial owner of each share, and shall incorporate therein any change of beneficial owner declared to it within fourteen days from receipt of such declaration ;

(*b*) shall not register any transfer of its shares—

(*i*) unless, in addition to compliance being made with the provisions of section 34 of the Indian Companies Act, 1913 (VII of 1913), the transferee furnishes a declaration as to whether he proposes to hold the shares for his own benefit or as a nominee, whether jointly or severally, on behalf of others, and in the latter case giving the name, occupation and address of the beneficial owner or owners, and the extent of the beneficial interest of each ; and

(*ii*) where, after the transfer, the total paid-up holding of the transferee in the shares of the company is likely to exceed five per cent of its paid-up capital or where the transferee is a banking or an investment company, is likely to exceed two and a half per cent of such paid-up capital, unless the previous sanction of the Central Government has been obtained to the transfer.

*Explanation.*—For the purposes of this sub-section and of sub-section (5), the holding of a person in the shares of a company shall be deemed to include—

(*i*) the total paid-up holding in such shares held by such person in the name of others; and

(*ii*) if any shares of the company are held—

(*a*) by a public limited company, of which such person is a member holding more than ten per cent of the paid-up capital, or

(*b*) by a private limited company, of which such person is a member, or

(*c*) by a company, of which such person is a managing director, manager, managing agent or in which he has a controlling interest, or

(*d*) by a firm in which such person is a partner, or

(*e*) by such person jointly with others,

such part of the total paid-up holding of the company or firm or of the total joint holding in those shares, as is proportionate to the contribution made by such person to the paid-up capital of the company, the paid-up capital of the firm or the joint holding, as the case may be.

(3) Every person in whose name any shares are registered in the register of members of any company referred to in sub-section (2) on the date on which the provisions of this section become applicable to the company, shall within thirty days from that date make a declaration to the company as to whether there are any beneficial owners other than himself in any shares standing in his name, and if so, stating the name, occupation and address of the beneficial owner of each such share, and notwithstanding anything contained in any other law or in any contract to the contrary, a person who fails to make a declaration as aforesaid in respect of any shares, shall not be entitled to any vote as a shareholder of the company in respect of those shares.

(4) Every person who has any interest in any share of a company referred to in sub-section (2) which stands in the name of another person in the register of members of the company, shall, within thirty days from the date on which the provisions of this section become applicable to the company or on which he acquires such interest, whichever is later, make a declaration (which shall be countersigned by the person in whose name the share is registered) to the company declaring his interest in such share, and notwithstanding anything contained in any other law or in any contract to the contrary, a person who fails to make a declaration as aforesaid in respect of any share shall be deemed to have no right or title whatsoever in those shares.

(5) If the total paid-up holding of any person in the shares of a company referred to in sub-section (2) on the date on which the provisions of this section become applicable to the company exceeds two and a half per cent of its paid-up capital where that person is a banking company or an investment company, or five per cent of its paid-up capital in any other case, he shall dispose of the excess holding of shares within one year from that date or such further period as may be allowed by the Central Government, and shall not be entitled to any vote as a shareholder of the company in respect of such excess holding of shares:

Provided that the Central Government may, subject to such restrictions as it may think fit to impose, exempt from the operation of this sub-section any insurance company in any case where the total paid-up holding of such insurance company in the shares of any other insurance company exceeds the limits specified in this sub-section if the other insurance company is or is to be made the subsidiary company of the insurance company.

6B. *Provision for securing compliance with requirements relating to capital structure.*—(1) For the purpose of enabling any public company carrying on life insurance business to bring its capital structure into conformity with the requirements of section 6A, an officer appointed in this behalf by the Central Government may, notwithstanding anything contained in the Indian Companies Act, 1913 (VII of 1913),—

(a) examine any scheme proposed for the purpose aforesaid by the directors of the company:

Provided that—

(i) the scheme has been placed before a meeting of the shareholders for their opinion and has been forwarded to the officer together with the opinion of the shareholders thereon; and

(ii) the scheme does not involve any diminution of the liability of the shareholders in respect of unpaid-up share capital;

(b) invite objections and suggestions in respect of the scheme so proposed; and

(c) after considering such objections and suggestions to the scheme so proposed, sanction it with such modifications as he may consider necessary or desirable.

(2) Against the decision of the officer sanctioning a scheme under sub-section (1), any shareholder or other person aggrieved thereby may, within ninety days of the date of the order sanctioning the scheme, prefer an appeal to the High Court within whose jurisdiction the registered office of the insurer is situate.

(3) The decision of the High Court where an appeal has been preferred to it under sub-section (2), or of the officer aforesaid where no such appeal has been preferred, shall be final and binding on all the shareholders and other persons concerned.

6C. *Conversion of company limited by shares into company limited by guarantee.*—(1) Where a public company limited by shares carrying on insurance business has passed a special resolution for converting itself into a public company limited by guarantee, it may apply to the Central Government with a scheme for putting the special resolution into effect, including any provision for the alteration of the memorandum or articles of association in so far as it may be necessary for this purpose.

(2) If the Central Government, after giving such notice to any person concerned as it thinks fit, is satisfied—

(a) that the scheme makes suitable provision with respect to the repayment, conversion or liquidation of the paid-up capital of the company,

(b) that the consent of the creditors to the conversion of the company limited by shares into a company limited by guarantee has been obtained, or that suitable provisions have been made for discharging, determining or securing the debts or claims of such creditors, and

(c) that the scheme is otherwise reasonable, it may sanction the scheme and thereupon the scheme shall become binding on the company and on all the persons concerned.

(3) Against the decision of the Central Government sanctioning a scheme under sub-section (2), any person aggrieved thereby may, within ninety days of the date of the order sanctioning the scheme, prefer an appeal to the High Court within whose jurisdiction the registered office of the insurer is situate.

(4) The decision of the High Court where an appeal has been preferred to it under sub-section (3) or of the Central Government where no such appeal has been preferred, shall be final and binding on all the persons concerned.

(5) Where a scheme has been sanctioned under this section, the company shall file with the Registrar of companies a certified copy of the scheme as sanctioned, and thereupon the provisions of the Indian Companies Act, 1913 (VII of 1913), relating to companies limited by guarantee shall become applicable to the company."

**10. Amendment of section 7, Act IV of 1938.**—In section 7 of the said Act,—

(i) in clause (d) of sub-section (1), the words "that is to say, insurance which is not in the opinion of the Central Government

principally or wholly of any kind or kinds included in clauses (*a*), (*b*) or (*c*)" shall be omitted;

(ii) in sub-section (4) and the proviso to sub-section (5), the words "and not being an insurer incorporated in or domiciled in the United Kingdom" shall be omitted.

**11. Amendment of Section 10, Act IV of 1938.**—In sub-section (2) of section 10 of the said Act, for the words beginning with the words "and a statement, certified by an auditor" and ending with the words in any case think fit to allow", the following shall be substituted, namely:—

"and every insurer shall, within the time limited in sub-section (1) of section 15 in regard to the furnishing of the statements and accounts referred to in section 11, furnish to the Controller-General a statement showing in detail such assets as at the close of every calendar year duly certified by an auditor or by a person qualified to audit under the law of the insurer's country:

Provided that such statement shall, in the case of an insurer to whom section 11 applies, be set out as a part of the balance-sheet mentioned in clause (*a*) of sub-section (1) of that section:

Provided further that an insurer may show in such statement all the assets held in his life department, but at the same time showing any deductions on account of general reserves and other liabilities of that department:

Provided also that the Controller-General may call for a statement similarly certified of such assets as at any other date specified by him to be furnished within a period of three months from the date with reference to which the statement is called for."

**12. Amendment of Section 11, Act IV of 1938.**—In sub-section (2) of section 11 of the said Act, for the words, "accompanied by a statement containing the names and descriptions of the persons in charge of the management of the business", the words "accompanied by a statement containing the names, descriptions and occupations of, and the directorships held by, the persons in charge of the management of the business" shall be substituted and the words "by such persons" shall be omitted.

**13. Amendment of Section 13, Act IV of 1938.**—In section 13 of the said Act.—

(i) in sub-section (1), and the proviso to sub-section (4), for the words "in every five years" the words "in every three years" shall be substituted;

(ii) to sub-section (1), the following provisos shall be added, namely :—

"Provided that for an insurer carrying on life insurance business in India at the commencement of the Insurance (Amendment) Act, 1949, the last date as at which the first investigation after such commencement should be caused to be made by an actuary shall be—

(a) the 31st day of December, 1950, or the date of expiration of five years from the date as at which the last investigation was made by an actuary before such commencement, whichever is earlier, where the said last investigation was at a date—

(i) before the 31st day of December, 1946, but not more than five years before such commencement, or

(ii) after the 30th day of December, 1946, but before the 31st day of December 1947, and had disclosed a deficit in the life insurance fund;

(b) the 31st day of December, 1951, where the last investigation by an actuary before such commencement was at a date—

(i) after the 30th day of December 1946, but before the 31st day of December 1947, and did not disclose a deficit in the life insurance fund; or

(ii) after the 30th day of December, 1947, but before the 31st day of December, 1948;

(c) the 31st day of December 1952, where the last investigation by an actuary before such commencement was as at any date after the 30th day of December 1948, but before such commencement:

Provided further that, in the case of an insurer who has not caused an investigation to be made by an actuary as at any date prior to such commencement the date of commencement of life insurance business in India shall, for the purpose of the preceding proviso, be deemed to be the date as at which the last investigation was made by an actuary before such commencement and such investigation shall be deemed to have disclosed no deficit in the life insurance fund."

**14. Amendment of Section 19, Act IV of 1938.**—In section 19 of the said Act, for the words "an abstract of the proceedings of every general meeting" the words "a certified copy of the minutes of the proceedings of every general meeting, as entered in the Minutes Book of the insurer" shall be substituted.

**15. Amendment of Section 21, Act IV of 1938.**—In clause (*d*) of sub-section (1) of section 21 of the said Act,—

(i) after the words "delivered to the insurer" the words "or of such further time as the Controller-General may specify in the requisition" shall be inserted;

(ii) after the word and figures "section 28" the words, figures, and letter "or section 28A" shall be inserted.

**16. Substitution of new section for section 27 Act IV of 1938.**—For section 27 of the said Act, the following section shall be substituted, namely:—

"27 *Investment of assets.*—(1) Every insurer shall invest and at all times keep invested assets equivalent to not less than the sum of—

(*a*) the amount of his liabilities to holders of life insurance policies in India on account of matured claims, and

(*b*) the amount required to meet the liability on policies of the life insurance maturing for payment in India.

less—

(i) the amount of premiums which have fallen due to the insurer on such policies but have not been paid and the days of grace for payment of which have not expired, and

(ii) any amount due to the insurer for loans granted on and within the surrender values of policies of life insurance maturing for payment in India issued by him or by an insurer whose business he has acquired and in respect of which he has assumed liability.

in the manner following, namely, twenty-five per cent, of the said sum in Government securities, a further sum equal to not less than twenty-five per cent of the said sum in Government securities or other approved securities and the balance in any of the approved investments specified in sub-section (1) of section 27A or, subject to the limitations, conditions and restrictions specified in sub-section (2) of that section in any other investment.

(2) for the purposes of sub-section (1)—

(*a*) the amount of any deposit made under section 7 or section 98 by the insurer in respect of his life insurance business shall be deemed to be assets invested or kept invested in Government securities;

(*b*) the securities of, or guaranteed as to principal and interest by, the Government of the United Kingdom shall be regarded as approved securities other than Government securities for a period of four years from the commencement

of the Insurance (Amendment) Act, 1949, in the manner and to the extent hereinafter specified, namely.—

(i) during the first year, to the extent of twenty-five per cent in value of the sum referred to in sub-section (1);

(ii) during the second year, to the extent of eighteen and three-fourths per cent. in value of the said sum;

(iii) during the third year, to the extent of twelve and a half per cent, in value of the said sum; and

(iv) during the fourth year, to the extent of six and a quarter per cent, in value of the said sum:

Provided that, if the Central Government so directs in any case, the securities specified in clause (*b*) shall be regarded as approved securities other than Government securities for a longer period than four years, but not exceeding six years in all, and the manner in which and the extent to which the securities shall be so regarded shall be as specified in the direction.

(3) In computing the assets referred to in sub-section (1).—

(*a*) any investment made with reference to any currency other than the Indian rupee which is in excess of the amount required to meet the liabilities of the insurer in India with reference to that currency, to the extent of such excess; and

(*b*) any investment made in the purchase of any immovable property outside India or on the security of any such property shall not be taken into account.

(4) Where an insurer has accepted reassurance in respect of any policies of life insurance issued by another insurer and maturing for payment in India or has ceded reassurance to another insurer in respect of any such policies issued by himself, the sum referred to in sub-section (1) shall be increased by the amount of the liability involved in such acceptance and decreased by the amount of the liability involved in such cession.

(5) The Government securities and other approved securities in which assets are under sub-section (1) to be invested and kept invested shall be held by the insurer free of any encumbrance, charge, hypothecation or lien.

(6) The assets required by this section to be held invested by an insurer incorporated or domiciled elsewhere than in the Provinces shall be held in India, except such foreign assets, if any, as may be held outside India, and all such assets shall be held in trust for the discharge of the liabilities of the nature

referred to in sub-section (1) and shall be vested in trustees approved by the Central Government who are either—

(*a*) citizens of India, or

(*b*) companies, co-operative societies or other bodies registered in the Provinces,

and the instrument of trust under this sub-section shall be executed by the insurer with the approval of the Central Government and shall define the manner in which alone the subject-matter of the trust shall be dealt with.

*Explanation.*—This sub-section shall apply to an insurer incorporated in the Provinces whose share-capital to the extent of one-third is owned by, or the members of whose governing body to the extent of one-third consists of, members domiciled elsewhere than in the Provinces."

**17 Insertion of new section 27A in Act IV of 1938.**—After section 27 of the said Act, the following section shall be inserted, namely :—

"27A. *Further provisions regarding investments.*—(1) No insurer shall invest or keep invested any part of his controlled fund otherwise than in any of the following approved investments, namely :—

(*a*) approved securities,

(*b*) securities of, or guaranteed as to principal and interest by the Government of the United Kingdom or any British possession;

(*c*) debentures or other securities for money issued with the permission of the Provincial Government by any municipality in a Province,

(*d*) debentures or other securities for money issued by any authority constituted under any housing or building scheme approved by the Central or a Provincial Government, or by any authority or body constituted by any Central Act or Act of a Legislature established in a Province;

(*e*) debentures secured by a charge on any immovable property, plant or equipment of any company which has paid interest in full for at least five out of the seven years immediately preceding on such or similar debentures issued by it;

(*f*) debentures of any company which has paid dividends on its ordinary shares for at least five out of the seven years immediately preceding;

(*g*) preference shares of any company which has paid dividends on its ordinary shares for at least five out of the seven years immediately preceding;

(*h*) shares of any company which have been guaranteed by another company, such other company having paid dividends on its ordinary shares for at least five out of the seven years immediately preceding;

Provided that the amount of shares under guarantee is not in excess of fifty per cent of the amount of preference and ordinary shares of the guaranteeing company;

(*i*) shares of any company on which dividends of not less than four per cent including bonus have been paid for at least seven out of the nine years immediately preceding;

(*j*) first mortgages on immovable property in the Provinces or in any other country where the insurer is carrying on insurance business;

Provided that the property mortgaged is not lease-hold property with an outstanding term of less than thirty years and the value of the property exceeds by one-third, or if consisting of buildings exceeds by one-half, the mortgage money;

(*k*) immovable property in the Provinces or in any other country where the insurer is carrying on insurance business:

Provided that the property is free of all encumbrances;

(*l*) loans on reversions or life interests, or on policies of life insurance within their surrender values issued by him or by an insurer whose business he has acquired and in respect of which business he has assumed liability;

(*m*) reversions and life interests;

(*n*) fixed deposits with banks included for the time being in the Second Schedule to the Reserve Bank of India Act, 1934 (II of 1934);

(*o*) debentures of shares in, or fixed deposits with, co-operative societies registered under the Indian Co-operative Societies Act, 1912 (II of 1912), or under any other law for the time being in force and doing banking business;

(*p*) such other investments as the Central Government may, by notification in the official Gazette, declare to be approved investments for the purposes of this section.

(2) Notwithstanding anything contained in sub-section (*1*), an insurer being a company may, subject to the provisions contained in the next succeeding sub-sections, invest or keep invested any part of his controlled fund otherwise than in an approved investment, if—

(*i*) after such investment, the total amounts of all such investments of the insurer do not exceed fifteen per cent of the sum referred to in sub-section (*1*) of section 27,

(*ii*) the investment is made, or in the case of any investment already made the continuance of such investment is with the consent of all the directors present at a meeting and eligible to vote, special notice of which has been given to all the directors then in India,

and all such investments, including investments in which any director is interested shall be reported without delay to the Controller-General with full details of the investments and the extent of the director's interest in any such investment.

(3) An insurer shall not out of his controlled fund invest or keep invested in the shares of any one banking company or investment company more than—

(*a*) two and a quarter per cent of the sum referred to in sub-section (*1*) of 27, or

(*b*) two per cent of the subscribed share capital and debentures of the banking company or investment company concerned, whichever is less:

Provided that nothing in this sub-section shall apply to investments in the shares of the Imperial Bank of India.

(4) An insurer shall not out of the controlled fund invest or keep invested in the shares or debentures of any one joint stock company other than a banking company or investment company more than—

(*a*) two and a quarter per cent. of the sum referred to in sub-section (1) of section 27, or

(*b*) ten per cent of the subscribed share capital and debentures of the joint stock company.

whichever is less:

Provided that nothing in this sub-section shall apply to any investment made with the previous consent of the Central Government by an insurer, being a company, with a view to forming a subsidiary company carrying on insurance business.

(5) An insurer shall not out of his controlled fund invest or keep invested any sum in the shares or debentures of any private limited company.

(6) Where an investment is in partly paid-up shares, the uncalled liability on such shares shall be added to the amount invested for the purpose of computing the percentages referred to in clause (*a*) of sub-section (3) and clause (*a*) of sub-section (4).

(7) Notwithstanding anything contained in sub-sections (3) and (4), where new shares are issued to the existing shareholders by a joint stock company the existing shares of which are

covered by clause (*h*) or clause (*i*) of sub-section (1) and of which an insurer is already a shareholder, the insurer may subscribe to such new shares:

Provided that the proportion of new shares subscribed by him does not exceed the proportion which the paid-up amount on the shares held by him immediately before such subscription bears to the total paid-up capital of the company at the time of such subscription.

(8) If, on an application submitted through the Controller-General, the Central Government is satisfied that special grounds exist warranting such exemption, the Central Government may, for such period, to such extent and in relation to such particular investments and subject to such conditions as may be specified by it in this behalf, exempt an insurer from all or any of the provisions of sub-sections (3), (4) and (7).

(9) An insurer shall not keep more than three per cent of the controlled fund in fixed deposit or current deposit, or partly in fixed deposit and partly in current deposit, with any one banking company:

Provided that in applying this sub-section to the amount in deposit with a banking company on any day, all the premiums collected by that company on behalf of the insurer during the preceding thirty days shall be excluded.

(10) All assets forming the controlled fund, not being securities invested or held invested in accordance with section 27 shall (except for a part thereof not exceeding one-tenth of the controlled fund in value which may, subject to such conditions and restrictions as may be prescribed, be offered as security for any loan taken for purposes of any investment) be held free of any encumbrance, charge, hypothecation or lien.

(11) If at any time the Central Government considers any one or more of the investments constituting an insurer's controlled fund to be unsuitable or undesirable, the Central Government may, after giving the insurer an opportunity of being heard, direct him to realise the investment or investments, and the insurer shall comply with the direction within such time as may be specified in this behalf by the Central Government.

(12) Every insurer in existence at the commencement of the Insurance (Amendment) Act, 1949, whose investments or any part thereof at such commencement contravene any of the provisions of this section, shall submit to the Controller-General a report specifying every such investment, within thirty days from the date on which this section comes into force; and the provisions of this section shall not apply in relation to any such investment for a period of one year from

the commencement of that Act or for such further period or periods as the Central Government may, by order, allow in respect of such investment on the ground that earlier realisation thereof will not be in the interests of the insurer.

(13) Nothing contained in this section shall be deemed to affect in any way the manner in which any moneys relating to the provident fund of any employee or to any security taken from any employee or other moneys of a like nature are required to be held by or under any Central Act or Act of a Legislature established in a Province.

*Explanation.*—In this section "controlled fund" means—

(*a*) in the case of any insurer specified in sub-clause (*a*) (*ii*) or sub-clause (*b*) of clause (*9*) of section 2 and carrying on life insurance business —

(*i*) all his funds, if he carries on no other class of insurance business;

(*ii*) all the funds appertaining to his life insurance business if he carries on some other class of insurance business also; and

(*b*) in the case of any other insurer carrying on life insurance business,—

(*i*) all his funds in India, if he carries on no other class of insurance business;

(*ii*) all the funds in India appertaining to his life insurance business if he carries on some other class of insurance business also,

but does not include any fund or portion thereof in respect of which the Controller-General is satisfied that such fund or portion thereof, as the case may be, is regulated by the law of any country outside India or in respect of which the Controller-General is satisfied that it would be impracticable to apply the provisions of this section."

**18. Amendment of section 28, Act IV of 1938.**—In section 28 of the said Act,—

(*i*) in sub-section (*1*), the words "registered under this Act" shall be omitted;

(*ii*) after sub-section (*2*), the following sub-sections shall be inserted, namely:—

"(*2A*) in respect of the Government securities and other approved securities invested and kept invested in accordance with sub-section (*1*) of section 27 an insurer shall submit along

with the returns referred to in sub-sections (*1*) and (*2*) a certificate, where such assets are in the custody of a banking company, from that company, and in any other case, from the chairman, two directors and a principal officer, if the insurer is a company, or otherwise from a principal officer of the insurer, to the effect that the securities are held free of any encumbrance, charge, hypothecation, or lien, and every such certificate after the first shall also state that since the date of the certificate immediately preceding all the securities have been so held.

(*2B*) In respect of the assets forming the controlled fund within the meaning of section 27A, and which do not form part of the Government securities and approved securities invested and kept invested in accordance with section 27, an insurer shall submit, along with the returns referred to in sub-section (*1*) and (*2*), a statement, where such assets are in the custody of a banking company, from that company, and in any other case, from the chairman, two directors and a principal officer if the insurer is a company, or from a principal officer of the insurer if the insurer is not a company, specifying the assets which are subjected to a charge and certifying that the other assets are held free of any encumbrance, charge, hypothecation, or lien, and every such statement after the first shall also specify the charges created in respect of any of those assets since the date of the statement immediately preceding, and if any such charges have been liquidated, the date on which they were so liquidated."

**19. Insertion of new section 28A in Act IV of 1938.**—After section 28 of the said Act, the following section shall be inserted, namely:—

"28A. *Return showing changes in investment.*—Every insurer carrying on life insurance business shall furnish to the Controller-General a return in the prescribed form showing the changes in the investments constituting his controlled fund, referred to in section 27A during each of the quarters ending on the last day of March, June, September and December, within thirty days from the close of the quarter to which it relates, and every such return shall be certified by a principal officer of the insurer."

**20. Amendment of section 29, Act IV of 1938.**—In section 29 of the said Act,—

(*i*) in the first proviso to sub-section (*1*), for the words "nothing herein contained", the words "nothing contained in this sub-section" shall be substituted;

(*ii*) the second and third provisos to sub-section (*1*) shall be omitted;

(*iii*) to the fourth proviso the following words shall be added, namely :—

"and where any such loan or advance is made out of any life insurance fund the matter shall be reported without delay to the Controller-General.";

(*iv*) after sub-section (*2*), the following sub-section shall be added, namely :—

"(*3*) Subject to the provisions of sub-section (*1*) no insurer carrying on life insurance business shall grant—

(*a*) any loans or temporary advances either on hypothecation of property or on personal security or otherwise, except such loans as are specified in sub-section (*1*) of section 27A;

(*b*) temporary advances to any chief, special or insurance agent to facilitate the carrying out of his functions as such except in cases where such advances do not exceed in the aggregate—

(*i*) in the case of a chief agent, overriding renewal commission earned by him;

(*ii*) in the case of a special agent, one-half of the overriding commission earned by him,

(*iii*) in the case of an insurance agent, the renewal commission earned by him,

during the two years immediately preceding.

(*4*) Every loan or advance existing at the commencement of the Insurance (Amendment) Act, 1949, which contravenes the provisions of sub-section (*3*) shall be notified by the insurer to the Controller-General within thirty days of such commencement and shall notwithstanding any contract to the contrary be repaid within one year from such commencement.

(*5*) Where any event occurs giving rise to circumstances, the existence of which at the time of the grant of any subsisting loan or advance would have made such grant a contravention of this section, such loan or advance shall, notwithstanding anything in any contract to the contrary, be repaid within three months from the occurrence of such event.

(*6*) In case of default in complying with the provisions of sub-section (*4*) or sub-section (*5*), the director, manager, auditor, actuary, officer or partner, or the chief, special or insurance agent concerned shall, without prejudice to any other penalty which he may incur, cease to hold office under, or to act for, the insurer granting the loan on the expiry of the said period of one year or three months, as the case may be."

**21. Amendment of section 30, Act IV of 1938.**—In section 30 of the said Act, after the word and figures "section 27" the word, figures and letter "section 27A" shall be inserted.

**22. Amendment of section 31, Act IV of 1938.**—In section 31 of the said Act, after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) Nothing contained in this section shall be deemed to prohibit the endorsement in favour of a banking company of any security or other document solely for the purpose of collection or for realisation of interest, bonus or dividend."

**23. Insertion of new sections 31A and 31B in Act IV of 1938.**—After section 31 of the said Act, the following sections shall be inserted, namely:—

"31A. *Provisions relating to managers, etc.*—(*1*) Notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913), or in the articles of association of the insurer, if a company or in any contract or agreement, no insurer shall after the expiry of three months from the commencement of the Insurance (Amendment) Act, 1949,—

(*a*) be managed by a company or a firm, or

(*b*) be directed or managed by, or employ as manager or officer or in any capacity, any person whose remuneration or any part thereof takes the form of commission or bonus or a share in the valuation surplus in respect of his life insurance business, or

(*c*) be directed or managed by, or employ as manager or officer or in any capacity, any person whose remuneration or any part thereof takes the form of commission or bonus in respect of his insurance business other than life insurance business:

Provided that nothing in this sub-section shall be deemed to prohibit—

(*i*) the payment of commission to a chief agent, special agent or an insurance agent, in respect of life insurance business procured by or through him;

(*ii*) the payment of commission to a principal agent or an insurance agent in respect of general insurance business procured by or through him;

(*iii*) the payment of commission, for such period as the Central Government may determine, to a person not being an officer of an insurer who was, on the 1st day of November, 1944, employing on behalf of an insurer chief agents or special agents and continues so to do in respect of insurance business procured by or through him;

(*iv*) the employment of any individual otherwise than as an officer who, in his capacity as an insurance agent, receives commission in respect of insurance business procured by him;

(*v*) the employment as an officer of any individual who receives renewal commission in respect of life insurance business procured by him as an insurance agent before such employment, or before the commencement of the Insurance (Amendment), Act, 1949, whichever is later;

(*vi*) the payment of a share in the profits of insurance business other than life insurance business;

(*vii*) the payment of bonus in any year on a uniform basis to all salaried employees or any class of them by way of additional remuneration, such bonus, in the case of any employee, not exceeding in amount the equivalent of his salary for a period which, in the opinion of the Central Government, is reasonable having regard to the circumstances of the case.

(*2*) Notwithstanding anything to the contrary contained in the Indian Companies Act, 1913, or in the articles of association of the insurer, being a company, or in any contract or agreement, no manager, managing director or any other person concerned in the management of an insurer's business shall be entitled to nominate a successor to his office, and no person so nominated, whether before or after the commencement of the Insurance (Amendment) Act, 1949, shall be entitled to hold or to continue in such office.

(*3*) If in the case of any insurance company provision is made by the articles of association of the company or by an agreement entered into between any person and the company for empowering a director or manager or other officer of the company to assign his office to any other person, any assignment of office made in pursuance of the said provision, shall, notwithstanding anything to the contrary contained in the said provision or in section 86B of the Indian Companies Act, 1913, be void.

(*4*) No person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred by reason of the operation of any provision of this section.

31B. *Power to restrict payment of excessive remuneration.*—(1) The Central Government may, if it is satisfied that any insurer is paying any person in respect of insurance business transacted in India remuneration, whether by way of commission or otherwise, on a scale disproportionate, according to the normal standards prevailing in insurance business, to the resources of the insurer, call upon the insurer to comply within six months with such directions as it may

think fit to issue in the matter, and if compliance with the directions so issued requires the alteration of any of the terms of the contract entered into by the insurer with such person, no compensation shall be payable to such person by the insurer by reason only of such alteration or of the resignation of such person if the altered terms are not acceptable to him and no payment by way of renewal commission or otherwise shall be made to such person by the insurer in respect of any premiums paid after the date of such resignation.

(2) Every insurer shall, before the close of the month following every year, submit to the Controller-General a statement in the prescribed form showing the remuneration paid, whether by way of commission or otherwise, to any person in cases where such remuneration exceeds the sum of five thousand rupees in that year.

(3) Where any person not being a chief agent, principal agent or special agent is in receipt of remuneration exceeding the sum of five thousand rupees in any year, the Controller-General may by notice in writing require the insurer to submit certified copies of the agreement entered into between the insurer and any such person, and the insurer shall comply with any such requisition within the time specified in the notice."

**24. Insertion of new section 32A in Act IV of 1938.**—After section 32 of the said Act, the following section shall be inserted, namely :—

"32A. *Prohibition of common officers and requirement as to whole-time officers.*—(*1*) A managing director or other officer of an insurer specified in sub-clause (*b*) of clause (*9*) of section 2 and carrying on life insurance business shall not be a managing director or other officer of any other insurer carrying on life insurance business or of banking company or of an investment company :

Provided that the Central Government may permit such managing director or other officer to be a managing director or other officer of any other insurer carrying on life insurance business for the purpose of amalgamating the business of the two insurers or transferring the business of one insurer to the other.

(*2*) Where an insurer specified in sub-clause (*b*) of clause (*9*) of section 2 has a life insurance fund of more than twenty-five lakhs of rupees or insurance funds totalling more than fifty lakhs of rupees, the manager, managing director or other officer of the insurer shall be a whole-time employee of the insurer :

Provided that the Central Government may, for such period as it thinks fit, permit the employment of any specified person as

a part-time manager, managing director or other officer of such insurer.

(3) Nothing in this section shall prevent—

(a) the manager, managing director or other officer of an insurer being the manager, managing director or other officer of a subsidiary company of the insurer;

(b) the manager, managing director or other officer of an insurer exclusively carrying on life insurance business, being the, manager, managing director or other officer of an insurer not carrying on life insurance business;

(c) an officer in the employment of an insurer from giving professional advice.

*Explanation.*—In this section the expression 'officer' does not include a director."

**25. Insertion of new section 34A in Act IV of 1938.**—After section 34 of the said Act, the following section shall be inserted, namely:—

"34A. *Power of investigation.*—(1) The Central Government may at any time, by order in writing, direct the Controller-General or any other person specified in the order to investigate the affairs of any insurer and to report to the Central Government on any investigation made by him:

Provided that the Controller-General or the other person may, wherever necessary, employ an auditor or actuary or both for the purpose of assisting him in any investigation under this section.

(2) It shall be the duty of every manager, managing director or other officer of the insurer to produce before the person directed to make the investigation under sub-section (1) all such books of account, registers and other documents in his custody or power and to furnish him with any statements and information relating to the affairs of the insurer as the said person may require of him within such time as the said person may specify.

(3) Any person, directed to make an investigation under sub-section (1), may examine on oath, any manager, managing director or other officer of the insurer in relation to his business and may administer oaths accordingly.

(4) On receipt of any report under sub-section (1), the Central Government may, after giving such opportunity to the insurer to make a representation in connection with the report as, in the opinion of the Central Government, seems reasonable, by order in writing,—

(a) require the insurer to take such action in respect of any matter as the Central Government may think fit, or

(*b*) direct the Controller-General to cancel the registration of the insurer and to apply to the Court for the winding up of the insurer, if a company.

(*5*) No order made under this section shall be called in question in any Court.

(*6*) All expenses of, and incidental to, any investigation made under this section shall be defrayed by the insurer, shall have priority over other debts due from the insurer and shall be recoverable as an arrear of land-revenue."

**26. Amendment of section 35, Act IV of 1938.**—In section 35 of the said Act,—

(*i*) in sub-section (*1*), for the words "Court having jurisdiction over one or other of the parties concerned", the word "Controller-General shall be substituted;

(*ii*) in sub-section (*3*), for the word "Court" and the words "Central Government", wherever they occur, the word "Controller-General" shall be substituted;

(*iii*) sub-section (*4*) shall be omitted.

**27. Amendment of section 36, Act IV of 1938.**—Section 36 of the said Act shall be renumbered as sub-section (*1*) of that section, and

(*a*) in that sub-section as so renumbered,—

(*i*) for the words "Court" and "it", wherever they occur, the words "Controller-General" and "he" shall, respectively, be substituted;

(*ii*) the words "or in a non-acceding State" shall be omitted; and

(*b*) after sub-section (*1*) as so renumbered, the following sub-section shall be inserted, namely:—

"(*2*) If the arrangement involves a reduction of the amount of the insurance and other contracts of the transferor insurer or of any or all of the insurers concerned in the amalgamation, the Controller-General may sanction the arrangement, reducing the amount of such contracts upon such terms and subject to such conditions as he may think proper, and the reduction of contracts as sanctioned by the Controller-General shall be valid and binding on all the parties concerned."

**28. Amendment of section 37, Act IV of 1938.**—In section 37 of the said Act, for the word "Court", in both the places where it occurs, and for the words "Central Government", the word "Controller-General" shall be substituted.

**29. Amendment of section 39, Act IV of 1938.**—In section 39 of the said Act, to sub-section (*1*) the following proviso shall be added, namely :—

"Provided that, where any nominee is a minor, it shall be lawful for the policy-holder to appoint in the prescribed manner any person to receive the money secured by the policy in the event of his death during the minority of the nominee."

**30. Amendment of section 40, Act IV of 1938.**—In section 40 of the said Act,—

(*i*) in sub-section (*1A*), after the words "and sections" the figures and letter "40A" shall be inserted;

(*ii*) to sub-section (*2*) the following further proviso shall be added, namely :—

"Provided further that nothing in this sub-section shall apply in respect of any policy of insurance issued after the 31st day of December, 1949.";

(*iii*) in the proviso to sub-section (*2A*), after the words "notice in writing to the insurance agent through whom the policy was effected", the words "if such agent continues to be an agent of the insurer" shall be inserted.

**31. Insertion of new sections 40A to 40C in Act IV of 1938.**—After section 40 of the said Act, the following sections shall be inserted, namely :—

"40A. *Limitation of expenditure on commission.*—(*1*) No person shall pay or contract to pay to an insurance agent, and no insurance agent shall receive or contract to receive by way of commission or remuneration in any form in respect of any policy of life insurance issued in India by an insurer after the 31st day of December, 1949, and effected through an insurance agent, an amount exceeding—

(*a*) where the policy grants an immediate annuity or a deferred annuity in consideration of a single premium, or where only one premium is payable on the policy, two per cent of that premium.

(*b*) where the policy grants a deferred annuity in consideration of more than one premium, seven and a half per cent of the first year's premium, and two per cent of each renewal premium, payable on the policy, and

(*c*) in any other case, thirty-five per cent of the first year's premium, seven and a half per cent of the second and third year's renewal premium, and thereafter five per cent of each renewal premium payable on the policy :

Provided that in a case referred to in clause (*c*), an insurer, during the first ten years of his business, may pay to an insurance agent, and an insurance agent may receive from such an insurer forty per cent of the first year's premium payable on the policy.

(*2*) No payment made by the insurer for the benefit of an insurance agent to a contributory provident fund maintained by the insurer under a scheme approved by the Controller-General shall be taken into account in computing any amount specified in sub-section (*1*).

(*3*) No person shall pay or contract to pay to a special agent, and no special agent shall receive, or contract to receive by way of commission or as remuneration in any form, in respect of any policy of life insurance issued in India by an insurer after the 31st day of December, 1949, and effected through a special agent an amount exceeding—

(*a*) in a case referred to in clause (*a*) of sub-section (*1*), one-half per cent, of the premium.

(*b*) in a case referred to in clause (*b*) of sub-section (*1*), two per cent of the first year's premium payable on the policy, and

(*c*) in a case referred to in clause (*c*) of sub-section (*1*), fifteen per cent of the first year's premium payable on the policy:

Provided that in a case referred to in clause (*c*), an insurer, during the first ten years of his business, may pay to a special agent, and a special agent may receive from such an insurer, seventeen and a half per cent of the first year's premium payable on the policy.

(*4*) No person shall pay or contract to pay to an insurance agent, and no insurance agent shall receive or contract to receive by way of commission or remuneration in any form, in respect of any policy of insurance (not being a policy of life insurance) issued in India by an insurer after the 31st day of December, 1949, and effected through an insurance agent, an amount exceeding—

(*a*) where the policy relates to fire or miscellaneous insurance, fifteen per cent of the premium payable on the policy, and

(*b*) where the policy relates to marine insurance, ten per cent of the premium payable on the policy.

(*5*) No person shall pay or contract to pay to a principal agent, and no principal agent shall receive or contract to receive, by way of commission or remuneration in any form, in respect of any policy of insurance (not being a policy of life insurance) issued in India by an insurer after the 31st day of

December, 1949, and effected through a principal agent, an amount exceeding—

(*a*) in the case referred to in clause (*a*) of sub-section (*4*), twenty per cent of the premium payable on the policy, and

(*b*) in the case referred to in clause (*b*) of that sub-section, fifteen per cent of the policy, less any commission payable to any insurance agent in respect of the said policy.

(*6*) Without prejudice to the provisions of section 102 in respect of a contravention of any of the provisions of the preceding sub-sections by an insurer, any insurance agent who contravenes the provisions of sub-section (*1*) or sub-section (*4*) and any special agent who contravenes the provisions of sub-section (*3*) shall be punishable with fine which may extend to one hundred rupees.

40B. *Limitation of expenses of management in life insurance business.*—(*1*) Every insurer transacting life insurance business in India shall furnish to the Controller-General, within such time as may be prescribed,—

(*a*) statements certified by an actuary of the bases of premiums currently used by him in regard to new business in respect of mortality, rate of interest, expenses and bonus loading;

(*b*) similar statements in respect of all premiums received by him:

Provided that an insurer may elect to submit on or before the 31st day of March every year a certificate from an actuary, in lieu of the statements specified in clause (*b*), giving the average provision for expenses of management provided in the premiums received by him during the preceding calendar year in respect of the life insurance business transacted by him in India.

(*2*) After the 31st day of December, 1949, no insurer shall in respect of the life insurance business transacted by him in India spend as expenses of management in any calendar year an amount in excess of the provision for expenses of management contained in the premiums received by him in that year as is based on the statements or the certificate specified in sub-section (*1*):

Provided that where an insurer has spent as such expenses in any year an amount in excess of the amount permissible under this sub-section, he shall not be deemed to have contravened the provisions of this section, if the excess amount so spent is within the limits fixed in respect of the year by the Executive Committee of the Life Insurance Council under

section 64K by which the actual expenses incurred may exceed the provision for expenses of management.

(3) In respect of any statement mentioned in sub-section (1), the Controller-General may require that it shall be submitted to another actuary appointed by the insurer for the purpose and approved by the Controller-General, for certification by him, whether with or without modifications, and the provision for expenses of management shall be modified, if necessary, according to the certificate furnished by the other actuary appointed under this sub-section.

(4) Every insurer shall, in respect of the life insurance business transacted by him in India, submit along with his annual returns furnished under section 15 or section 16, as the case may be, a statement certified by the principal officer of the insurer and by the auditor or an actuary of the total provision for expenses of management contained in the premiums taken credit for in the revenue account for the preceding calendar year and the total expenses of management as stated in the revenue account.

(5) Every insurer transacting life insurance business in India shall incorporate in the revenue account—

(a) a certificate signed by a principal officer in India, and an auditor's certificate, certifying that all expenses of management in respect of life insurance business transacted by the insurer in India have been fully debited in the revenue account as expenses; and

(b) if the insurer is carrying on any other class of insurance business in addition to life insurance business an auditor's certificate certifying that all charges incurred in respect of his life insurance business and in respect of his business other than life insurance business have been fully debited in the respective revenue accounts.

*Explanation.*—In this section,—

(a) "calendar year" or "year" means, in relation to an insurer who is required to furnish returns in accordance with sub-section (2) of section 16, the period covered by the revenue account furnished by such insurer under clause (b) of that sub-section;

(b) "expenses of management" means all charges wherever incurred whether directly or indirectly, and includes—

(i) commission payments of all kinds.

(ii) any amount of expenses capitalised.

(*iii*) in the case of an insurer having his principal place of business outside India, a proper share of head office expenses which shall not be less than such percentage as may be prescribed of the total premiums (less reinsurances) received during the year in respect of life insurance business transacted by him in India.

40C. *Limitation of expenses of management in General insurance business.*—(*1*) After the 31st day of December, 1919, no insurer shall, in respect of any class of general insurance business transacted by him in India, spend in any calendar year as expenses of management, including commission or remuneration for procuring business, an amount in excess of the limits fixed by the Executive Committee of the General Insurance Council under sub-section (*1*) of section 64M :

Provided that where an insurer has spent as such expenses in any year an amount in excess of the amount permissible under this sub-section, he shall not be deemed to have contravened the provisions of this section, if the excess amount so spent is within the limits, fixed in respect of the year by the Executive Committee of the General Insurance Council under sub-section (*2*) of section 64M, by which the actual expenses incurred may exceed the expenses permissible under sub-section (*1*).

(*2*) Every insurer as aforesaid shall incorporate in the revenue account a certificate signed by the principal officer of the insurer in India and by an auditor certifying that all expenses of management wherever incurred, whether directly or indirectly, in respect of the business referred to in this section, have been fully debited in the revenue account as expenses.

*Explanation.*—In this section,—

(*a*) "calendar year" shall have the meaning assigned to it in section 40B ;

(*b*) "expenses of management" means all charges, wherever incurred whether directly or indirectly, including commission payments of all kinds and, in the case of an insurer having his principal place of business outside India, a proper share of head office expenses, which shall not be less than such percentage as may be prescribed, of his gross premium income (that is to say, the premium income without taking into account premiums on reinsurance ceded or accepted) written direct in India during the year ;

(*c*) "insurance business transacted in India" includes insurance business, wherever effected, relating to any property situate in India or to any vessel or aircraft registered in India."

**32. Amendment of section 42, Act IV of 1938.**—In section 42 of the said Act,—

(*a*) in sub-section (*1*), for the words "three rupees", the words "ten rupees" shall be substituted;

(*b*) in sub-section (*2*), the word "registered" shall be omitted;

(*c*) for sub-section (*3*), the following shall be substituted, namely:—

"(*3*) A licence issued under this section, after the commencement of the Insurance (Amendment) Act, 1949, shall remain in force for a period of three years only from the date of issue, but shall, if the applicant does not suffer from any of the disqualifications mentioned in items (*b*), (*c*) and (*d*) of sub-section (*4*) and the application for renewal of the licence reaches the issuing authority at least thirty days before the date on which the licence ceases to remain in force, be renewed for a period of three years at any one time on payment of the prescribed fee which shall not be more than ten rupees, and an additional fee of a prescribed amount, not exceeding three rupees by way of penalty, if the application for renewal of the licence does not reach the issuing authority at least thirty days before the date on which the licence ceases to remain in force:

Provided that no application for the renewal of a licence shall be entertained if the application does not reach the issuing authority before the licence ceases to remain in force."

**33. Insertion of new sections 42A, 42B and 42C in Act IV of 1938.**—After section 42 of the said Act, the following sections shall be inserted, namely:—

"42A. *Registration of principal agents, chief agents and special agents.*—(*1*) The Controller-General or an officer authorised by him in this behalf shall, in the prescribed manner and on payment of the prescribed fee, which shall not be more than twenty-five rupees for a principal agent or a chief agent and ten rupees for a special agent, register any person who makes an application to him in the prescribed manner if,—

(*a*) in the case of an individual, he does not suffer from any of the disqualifications mentioned in sub-section (*4*) of section 42, or

(*b*) in the case of a company or firm, any of its directors or partners does not suffer from any of the said disqualifications, and a certificate to act as a principal agent, chief agent or

special agent, as the case may be, for the purpose of procuring insurance business shall be issued to him.

(*2*) A certificate issued under this section shall entitle the holder thereof to act as a principal agent, chief agent or special agent, as the case may be, for any insurer.

(*3*) A certificate issued under this section shall remain in force for a period of twelve months only from the date of issue, but shall, on application made in this behalf, be renewed from year to year on production of a certificate from the insurer concerned that the provisions of clauses *2* and *3* of Part A of the Sixth Schedule in the case of a principal agent, the provisions of clauses 2 and 4 of Part B of the said Schedule in the case of a chief agent, and the provisions of clauses *2* and *3* of Part C of the said Schedule in the case of a special agent, have been complied with, and no payment of the prescribed fee, which shall not be more than twenty-five rupees, in the case of a principal agent or a chief agent, and ten rupees in the case of a special agent, and an additional fee of the prescribed amount not exceeding five rupees by way of penalty, in cases where the application for renewal of the certificate does not reach the issuing authority before the date on which the certificate ceases to remain in force :

Provided that, where the applicant is an individual, he does not suffer from any of the disqualifications mentioned in clauses (*b*) to (*d*) of sub-section (*4*) of section 42, and, where the applicant is a company or a firm, any of its directors or partners does not suffer from any of the said disqualifications.

(*4*) Where it is found that the principal agent, chief agent or special agent being an individual is, or being a company or firm contains a director or partner who is, suffering from any of the disqualifications mentioned in sub-section (*4*) of section 42, without prejudice to any other penalty to which he may be liable, the Controller-General shall, and where a principal agent, chief agent or special agent has contravened any of the provisions of this Act may, cancel the certificate issued under this section to such principal agent, chief agent or special agent.

(*5*) The authority which issued any certificate under this section may issue a duplicate certificate to replace a certificate lost, destroyed or mutilated on payment of the prescribed fee, which shall not be more than two rupees.

(*6*) Any person who acts as a principal agent, chief agent or special agent, without holding a certificate issued under this section to act as such, shall be punishable with fine which may extend to five hundred rupees, and any insurer or any person acting on behalf of an insurer, who appoints as a principal agent, chief agent or special

agent any person not entitled to act as such or transacts any insurance business in India through any such person, shall be punishable with fine which may extend to one thousand rupees.

(*7*) Where the person contravening sub-section (*6*) is a company or a firm, then, without prejudice to any other proceedings which may be taken against the company or firm, every director, manager, secretary or any other officer of the company, and every partner of the firm who is knowingly a party to such contravention shall be punishable with fine which may extend to five hundred rupees.

(*8*) The provisions of sub-sections (*6*) and (7) shall not take effect until the expiry of six months from the commencement of the Insurance (Amendment) Act, 1949.

42B. *Regulation of employment of principal agents.*—(*1*) Every contract between an insurer carrying on general insurance business in India and a principal agent shall be in writing and shall specify the area for which the principal agent is appointed, and the terms contained in Part A of the Sixth Schedule shall be deemed to be incorporated in and form part of every such contract.

(*2*) No principal agent shall, either directly or through insurance agents, procure any general insurance business for the insurer in any area outside the area for which he has been appointed, or in any area for which another principal agent has been appointed, or in any area in which the head office or any branch office of the insurer is operating, and neither the head office nor any branch office of the insurer shall operate in any area for which a principal agent has been appointed.

(*3*) Within sixty days of the commencement of the Insurance (Amendment) Act, 1949, every principal agent shall file with the insurer concerned a full list of insurance agents employed by him indicating the terms of the contract between the principal agent and each of such insurance agents, and, if any principal agent fails to file such a list within the period specified, any commission payable to such principal agent on premiums received from the date of expiry of the said period of sixty days until the date of the filing of the said list shall, notwithstanding anything in any contract to the contrary, cease to be so payable.

(*4*) A certified copy of every contract as is referred to in sub-section (*1*) shall be furnished by the insurer to the Controller-General within thirty days of his entering into such contract and intimation of any change in any such contract shall be furnished by the insurer with full particulars thereof to the Controller-General within thirty days of the making of any such change.

(*5*) If the commission due to any insurance agent in respect of any general insurance business procured by such agent is not paid by the

principal agent for any reason, the insurer may pay the insurance agent the commission so due and recover the amount so paid from the principal agent concerned.

(*6*) Every contract as is referred to in sub-section (*1*), subsisting at the commencement of the Insurance (Amendment) Act, 1949, shall, with respect to terms regarding remuneration, be deemed to have been so altered as to be in accordance with the provisions of sub-section (*5*) of section 40A.

(*7*) If any dispute arises as to whether a person is or was a principal agent, the matter shall be referred to the Controller-General, whose decision shall be final.

(*8*) Every insurer shall maintain a register in which the name and address of every principal agent appointed by him, the date of such appointment and the date, if any, on which the appointment ceased shall be entered.

42C. *Regulation of employment of chief agents and special agents.*—(*1*) Every contract between an insurer carrying on life insurance business in India and a chief agent shall be in writing, and shall specify the area (not being less in extent than a district or the equivalent thereof) for which the chief agent is appointed, and the terms contained in Part B of the Sixth Schedule shall be deemed to be incorporated in and form part of every such contract.

(*2*) No chief agent shall, either directly or through insurance agents or special agents employed by or through him, procure life insurance business for the insurer in any area outside the area for which he has been appointed or in any area for which another chief agent has been appointed or in any area in which the head office or any branch office of the insurer is operating, and neither the head office nor any branch office of the insurer shall operate in any area for which a chief agent has been appointed :

Provided that nothing in this sub-section shall be deemed to prohibit the head office of an insurer which had been operating at the commencement of the Insurance (Amendment) Act, 1949, for a period of not less than ten years before such commencement within the municipal limits of any town where the head office is situate, and a chief agent who, in pursuance of an agreement in writing had been operating for a similar period within such limits, from continuing to operate within the said limits ;

Provided further that nothing in this sub-section shall be deemed to prohibit an insurance agent from procuring life insurance business in or from any area and submitting the proposals direct to the principal office of the insurer in India.

(*3*) Within sixty days of the commencement of the Insurance (Amendment) Act, 1949, every chief agent shall file with the insurer

concerned a full list of the insurance agents employed by him, indicating the terms of the contract between the chief agent and each of such insurance agents and the business secured by each of such agents which is still in force, and if any chief agent fails to file such a list within the period specified, any commission payable to such chief agent on premiums received from the date of the expiry of the said period of sixty days until the date of the filing of the said list shall, notwithstanding anything in any contract to the contrary, cease to be so payable.

(*4*) On the death or insolvency of the chief agent or the termination of the contract with him, the insurance agents working under him shall be deemed to have been directly appointed as agents of the insurer, and the renewal commission in respect of all future premiums on policies effected through such agents shall be paid to them direct by the insurer.

(*5*) Every contract between an insurer carrying on life insurance business in India and a special agent, or between a chief agent of such insurer and a special agent, shall be in writing and the terms contained in Part C of the Sixth Schedule shall be deemed to be incorporated in, and form part of every such contract.

(*6*) A certified copy of every contract as is referred to in sub-section (*1*) or sub-section (*5*) shall be furnished by the insurer to the Controller-General within thirty days of his entering into such contract, and intimation of any change in any such contract shall be furnished by the insurer with full particulars thereof to the Controller-General within thirty days of the making of any such change.

(*7*) No such contract as is referred to in sub-section (*1*) or sub-section (*5*) shall be entered into or renewed for a period exceeding ten years at any one time, and, notwithstanding the terms of any contract to the contrary, no option to renew any such contract given to any of the parties shall be enforceable without the consent of the other.

(*8*) Every such contract as is referred to in sub-section (*1*) or sub-section (*5*) subsisting at the commencement of the Insurance (Amendment) Act, 1949, shall terminate on the 31st day of December 1949, if it has not terminated earlier :

Provided that if any party to a contract, which has been prematurely terminated by the operation of this sub-section, so requires, the other party shall enter into a fresh contract with him for the unexpired period, not exceeding ten years of the terminated contract and the terms of such fresh contract shall—

(*i*) as respects remuneration, whether in respect of business already procured or in respect of business to be procured thereafter,

be such as may be mutually agreed upon between the parties;

(*ii*) be deemed to include all the terms specified in Part B or Part C of the Sixth Schedule, as the case may be;

(*iii*) as respects any other matter for which no provision is made either in this section or in the Sixth Schedule, be the terms of the terminated contract modified only to such extent, if any, as may be mutually agreed upon between the parties:

Provided further that in the event of any dispute as to the terms of the fresh contract, the matter shall be referred to arbitration.

(9) Nothing in this section shall be deemed to prevent any special agent from receiving any renewal commission on policies effected through him as an insurance agent at any time before his appointment as such special agent.

(10) If any dispute arises as to whether a person is or was a chief agent or a special agent for the purposes of this Act, the matter shall be referred to the Controller-General whose decision shall be final.

(11) Every insurer shall maintain a register in which the name and address of every chief agent appointed by him, the date on which the appointment was made and the date, if any, on which the appointment ceased shall be entered, and a separate register in which similar particulars relating to every special agent shall be entered, and every chief agent shall maintain a register in which similar particulars relating to every special agent appointed by him shall be entered."

**34. Amendment of Section 44, Act IV of 1938.**—For the provisos to section 44 of the said Act, the following proviso shall be substituted, namely:—

"Provided that—

(*a*) such agent ceases to act for the insurer concerned after the Central Government has notified in the official Gazette that it is satisfied that the circumstances in which the said insurer is placed are such as to justify the agents ceasing to act for him; or

(*b*) such agent has served the insurer continually and exclusively for at least seven years, and policies assuring a total sum of not less than one hundred and fifty thousand rupees effected through him for the insurer were in force on a date one year before his ceasing to act as such agent for the insurer, and that the renewal premium income on policies so effected has not fallen at any time after his ceasing to act as such below forty per cent, of the premiums due on policies effected through him and in force at the time of his ceasing to act as such agent, but excluding such of those policies as may have become claims by maturity; or

(*c*) such agent has served the insurer continually and exclusively for at least ten years, and after his ceasing to act as such agent he does not directly or indirectly solicit or procure insurance business for any other person."

**35. Insertion of new Section 44A in Act IV of 1938**—After section 44 of the said Act and before the heading "Special Provisions of Law," the following section shall be inserted, namely:—

"44A. *Power to call for information.*—For the purposes of ensuring compliance with the provisions of sections 40A, 40B, 40C, 42B and 42C the Controller-General may by notice—

(*a*) require from an insurer, principal agent, chief agent or special agent such information, certified if so required by an auditor or actuary, as he may consider necessary;

(*b*) require an insurer, principal agent, chief agent or special agent to submit, for his examination at the principal place of business in the Provinces, any book of account, register or other document, or to supply any statement which may be specified in the notice;

(*c*) examine any officer of an insurer or a principal agent, chief agent or special agent on oath, in relation to any such information, book, register, document or statement and administer the oath accordingly;

and an insurer, principal agent, chief agent or special agent shall comply with any such requirement within such time as may be specified in the notice."

**36. Amendment of Section 47, Act IV of 1938.**—In sub-section (1) of Section 47 of the said Act, the words "before the expiry of nine months from the date of the maturing of the policy or, where the circumstances are such that the insurer cannot be immediately aware of such maturing, from the date on which notice of such maturing is given to the insurer" shall be omitted.

**37. Insertion of new Section 47A in Act IV of 1938.**—After section 47 of the said Act, the following section shall be inserted, namely:—

"47A. *Claims on small life insurance policies.*—(*1*) In the event of any dispute relating to the settlement of a claim on a policy of life insurance assuring a sum not exceeding two thousand rupees exclusive of any profit or bonus not being a guaranteed profit or bonus issued by an insurer in respect of insurance business transacted in the Provinces, arising between the holder of such policy and the insurer who issued the policy or has otherwise assumed liability in respect thereof, the dispute may, at the option of the policy-holder be referred to the Controller-General for decision, and the Controller-General shall, after giving an opportunity to the parties to be heard and after

making such further inquiries as he may think fit, decide the matter.

(2) The decision of the Controller-General under this sub-section shall be final and shall not be called in question in any Court, and may be executed by the Court which would have been competent to decide the dispute if it had not been referred to the Controller-General as if it were a decree passed by that Court."

**38 Amendment of Section 48, Act IV of 1938.**—In section 48 of the said Act,—

(*i*) in sub-section (*1*) after the words "directors of the company" the words "the number to be elected not being less than two in any case" shall be inserted;

(*ii*) for sub-section (*2A*), the following sub-section shall be substituted, namely:—

(*2A*) A person shall be ineligible for election as a director under sub-section (*1*) of any company—

(*a*) if he is a director, officer, employee or legal or technical adviser of that company or of any other insurer, or

(*b*) in the case of any person who had been in the employ of the insurer in any capacity other than as chief executive officer thereof, if five years have not elapsed from the date of his leaving the service of the insurer,

and shall cease, to be a director under sub-section (*1*), if after election he becomes subject to any disqualification specified in this sub-section or no longer holds the qualifications required by sub-section (*2*):

Provided that nothing in this sub-section shall disqualify a person who is an elected director under sub-section (*1*) and is not otherwise disqualified under this sub-section from being re-elected:";

(*iii*) in clause (*a*) of sub-section (*3*), for the words "provisions of this sub-section" the words "provisions of this section" shall be substituted.

**39. Amendment of Section 48A, Act IV of 1938.**—In section 48 A of the said Act, for the words "no person acting on behalf of an insurer who, for the purpose of life insurance business employs insurance agents" the words "no chief agent or special agent" shall be substituted.

**40. Insertion of new Section 48B in Act IV of 1938.**—After section 48A of the said Act, the following section shall be inserted, namely:—

"48B. *Further provision regarding directors.*—An insurer specified in sub-clause (*b*) of clause (9) of section 2 and carrying on life

insurance business shall not have a common director with another such insurer:

Provided that this section shall not apply—

(*i*) in any case where one insurer is a subsidiary company of the other; or

(*ii*) in any case where, for the purpose of facilitating the amalgamation of two or more insurers or the transfer of the business of one insurer to another, the Central Government has, for such period, to such extent and subject to such conditions as may be specified, exempted any such insurer or insurers from the operation of this section."

**41. Amendment of Section 49, Act IV of 1938.**—(*1*) Section 49 of the said Act shall be renumbered as sub-section (*1*) thereof, and after the proviso to that sub-section, as so renumbered, the following further proviso shall be added, namely:—

"Provided further that the share of any such surplus allocated to or reserved for the shareholders (including any amount for the payment of dividends guaranteed to them, whether by way of first charge or otherwise) shall not exceed ten per cent of such surplus."

(*2*) After sub-section (*1*) as so renumbered, the following sub-section shall be inserted, namely:—

"(*2*) For the purposes of sub-section (*1*), the actual amount of income-tax deducted at source during the period following the date as at which the last preceding valuation was made and preceding the date as at which the valuation in question is made may be added to such surplus after deducting an estimated amount for income-tax on such surplus, such addition and deduction being shown in paragraph 8(1) of the abstract prepared in accordance with Part II of the Fourth Schedule to this act."

**42. Insertion of new Sections 52A to 52F in Act IV of 1938.**—After section 52 of the said Act, the following heading and section shall be inserted, namely:—

MANAGEMENT BY ADMINISTRATOR.

52A. *When Administrator for Management of Insurance may be appointed.*—(*1*) If at any time the Controller-General has reason to believe that an insurer carrying on life insurance business is acting in a manner likely to be prejudicial to the interests of holders of life insurance policies, he may after giving such opportunity to the insurer to be heard as he thinks fit, make a report thereon to the Central Government.

(2) The Central Government, if it is of opinion after considering the report that it is necessary or proper to do so, may appoint an Administrator to manage the affairs of the insurer under the direction and control of the Controller-General.

(3) The Administrator shall receive such remuneration as the Central Government may direct and the Central Government may at any time cancel the appointment and appoint some other person as Administrator.

(4) The management of the business of the insurer shall as on and after the date of appointment of the Administrator vest in such Administrator, but except with the leave of the Controller-General the Administrator shall not issue any further policies.

(5) As on and after the date of appointment of the Administrator any person vested with any such management immediately prior to that date shall be divested of that management.

(6) The Controller-General may issue such directions to the Administrator as to his powers and duties as he deems desirable in the circumstances of the case, and the Administrator may apply to the Controller-General at any time for instructions as to the manner in which he shall conduct the management of the business of the insurer or in relation to any matter arising in the course of such management.

52B. *Powers and duties of the Administrator.*—(1) The Administrator shall conduct the management of the business of the insurer with the greatest economy compatible with efficiency and shall, as soon as may be possible, file with the Controller-General a report stating which of the following courses is in the circumstances most advantageous to the general interests of the holders of life insurance policies, namely:—

(a) the transfer of the business of the insurer to some other insurer;

(b) the carrying on of its business by the insurer (whether with the policies of the business continued for the original sum insured with the addition of bonuses that attach to the policies or for reduced amounts);

(c) the winding up of the insurer; or

(d) such other course as he deems advisable.

(2) On the filing of the report with the Controller-General, the Controller-General may take such action as he thinks fit for promoting the interests of the holders of life insurance policies in general.

(3) Any order passed by the Controller-General under sub-section (2) shall be binding on all persons concerned, and shall have

effect notwithstanding anything in the memorandum or articles of association of the insurer, if a company.

52C. *Cancellation of contracts and agreements.*—The Administrator may, at any time during the continuance of his appointment with respect to an insurer and after giving an opportunity to the persons concerned to be heard, cancel or vary (either unconditionally or subject to such conditions as he thinks fit to impose) any contract or agreement (other than a policy) between the insurer and any other person which the Administrator is satisfied is prejudicial to the interests of holders of life insurance policies.

52D. *Termination of appointment of Administrator.*—If at any time, on a report made by the Controller-General in this behalf, it appears to the Central Government that the purpose of the order appointing the Administrator has been fulfilled or that for any reason it is undesirable that the order of appointment should remain in force, the Central Government may cancel the order and thereupon the Administrator shall be divested of the management of the insurance business which shall, unless otherwise directed by the Central Government, again vest in the person in whom it was vested immediately prior to the date of appointment of the Administrator.

52E. *Finality of decision appointing Administrator.*—Any order or decision of the Central Government made in pursuance of section 52A or section 52D shall be final and shall not be called in question in any Court.

52F. *Penalty for withholding documents or property from Administrator.*—If any director or officer of the insurer or any other person fails to deliver to the Administrator any books of account, registers or any other documents in his custody relating to the business of the insurer the management of which has vested in the Administrator, or retains any property of such insurer, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

52G. *Protection of action taken under sections 52A to 52D.*—(1) No suit, prosecution or other legal proceeding shall lie against an Administrator for anything which is in good faith done or intended to be done in pursuance of sections 52A to 52C inclusive.

(2) No suit or other legal proceeding shall lie against the Central Government or the Controller-General for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under section 52A, section 52B, or section 52D."

**43. Amendment of section 55, Act IV of 1938.**—In section 55 of the said Act, for the words "Sixth Schedule", wherever they occur, words "Seventh Schedule" shall be substituted.

**44. Amendment of section 64, Act IV of 1938.**—To section 64 of the said Act, the following words shall be added, namely :—

"and shall furnish to the Controller-General on or before the last day of January in every calendar year a certificate from an auditor to the effect that the said books of account, register and documents are being kept as required at the principal office of the insurer."

**45. Insertion of new sections 64A to 64S in Act IV of 1938.**—After section 64 and before Part III, the following Part and sections shall be inserted, namely :—

"PART IIA.

INSURANCE ASSOCIATION OF INDIA, COUNCILS OF THE ASSOCIATION AND COMMITTEES THEREOF.

64A. *Incorporation of the Insurance Association of India.*—(1) All insurers holding certificates of registration under this Act at the commencement of the Insurance (Amendment) Act, 1949, all insurers who may thereafter be granted certificates of registration under this Act, and, if the Central Government by notification in the official Gazette so declares, all provident societies holding certificates of registration under this Act or under the Provident Insurance Societies Act, 1912 (VI of 1912), on the date of such notification and all provident societies which may be granted certificates of registration under this Act after such date, are hereby constituted a body corporate by the name of the Insurance Association of India, and all such insurers and provident societies shall be known as members of that Association.

(2) The Insurance Association of India shall have perpetual succession and a common seal and shall have power to acquire, hold and dispose of all property, both movable and immovable, and shall by the said name sue and be sued.

64B. *Entry of names of members in the register.*—(1) The Controller-General shall take or cause to be taken through such agency as he thinks fit such steps as may be necessary to have the names of all insurers and provident societies, who or which are entitled to have their names entered in the register of members of the Insurance Association of India maintained for this purpose entered therein.

(2) Where any insurer or provident society has ceased to carry on business as such, the Controller-General shall cause such steps to be taken as may be necessary to have the name of such insurer or provident society, as the case may be, removed from the register of members.

64C. *Councils of the Insurance Association of India.*—There shall be two Councils of the Insurance Association of India, namely:—

(*a*) the Life Insurance Council consisting of all the members of the Association who carry on life insurance business in India, and

(*b*) the General Insurance Council consisting of all the members of the Association who carry on general insurance business in India.

64D. *Authority of members of Association to act through agents.*—It shall be lawful for any member of the Life Insurance Council or the General Insurance Council to authorise any individual, whether an officer of the insurer or not, to act as the representative of such member at any meeting of the Council concerned or to stand as a candidate for any election held by that Council.

64E. *Authorities of the Life Insurance Council and the General Insurance Council.*—(1) The authorities of the Life Insurance Council and the General Insurance Council shall be the Executive Committees, the Tariff Committee and the other Committees thereof constituted in the manner provided in this Part.

64F. *Executive Committees of the Life Insurance Council and the General Insurance Council.*—(1) The Executive Committee of the Life Insurance Council shall consist of the following persons, namely:—

(*a*) two officials nominated by the Central Government, one as the Chairman and the other as a member;

(*b*) eight representatives of insurers carrying on life insurance business elected in their individual capacity by the said insurers in such manner, from such groups of insurers and from such areas as may be specified by the Central Government;

(*c*) one non-official not connected with any insurance business, nominated by the Central Government; and

(*d*) four persons connected with insurance business, nominated by the Central Government for the purpose of representing such groups of insurers carrying on life insurance business or such areas as have not been able to secure adequate representation on the Executive Committee of the Life Insurance Council or for any other purpose.

(2) The Executive Committee of the General Insurance Council shall consist of the following persons, namely:—

(*a*) two officials nominated by the Central Government, one as the Chairman and the other as a member;

(*b*) nine representatives of insurers carrying on general insurance business elected in their individual capacity by the said

insurers in such manner, from such groups and from such areas as may be specified by the Central Government;

(c) one non-official not connected with any insurance business, nominated by the Central Government; and

(d) three persons connected with insurance business, nominated by the Central Government for the purpose of representing such groups of insurers carrying on general insurance business or such areas as have not been able to secure adequate representation on the Executive Committee of the General Insurance Council or for any other purpose.

(3) If any body of persons specified in sub-sections (1) and (2) fails to elect any of the members of the Executive Committees of the Life Insurance Council or the General Insurance Council, the Central Government may nominate any person to fill the vacancy, and any person so nominated shall be deemed to be a member of the Executive Committee of the Life Insurance Council or the General Insurance Council, as the case may be, as if he had been duly elected thereto.

(4) Each of the Executive Committees of the Life Insurance Council and the General Insurance Council may, with the approval of the Central Government, make bye-laws for the transaction of any business at any meeting of the said Committee, and any such bye-law may provide that any member of the Committee who is interested in any matter for the time being before that Committee may not be present at, or take part in, any meeting thereof.

(5) Any decision of the Executive Committee of the Life Insurance Council or of the General Insurance Council shall be subject to the approval of the Controller-General, and on such approval shall be final and shall not be questioned in any manner.

(6) The Life Insurance Council or the General Insurance Council may form such other committees consisting of such persons as it may think fit to discharge such functions as may be delegated thereto:

Provided that any action taken by any of the said Councils under this sub-section shall be with the previous consent of the Central Government, and nothing in this sub-section shall derogate from any of the powers vested in the Executive Committees.

(7) The Secretary of the Executive Committee of the Life Insurance Council and of the Executive Committee the General Insurance Council shall in each case be an official nominated by the Central Government.

64G. *Resignation and filling up of casual vacancies.*—(1) Any member of the Executive Committee of the Life Insurance Council or of the General Insurance Council may resign his membership of the Committee by notice in writing addressed to the Chairman of the Committee to that effect.

(2) Casual vacancies in the Executive Committee of the Life Insurance Council or of the General Insurance Council, whether caused by resignation, death or otherwise, shall be filled by nomination by the Central Government, and any person so nominated to fill the vacancy shall hold office until the dissolution of the Committee to which he has been nominated.

(3) No act of the Executive Committee of the Life Insurance Council or of the General Insurance Council shall be called in question on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Committee concerned.

64H. *Duration and dissolution of Executive Committees.*—(1) The duration of the Executive Committee of the Life Insurance Council or the General Insurance Council shall be three years from the date of its first meeting on the expiry of which it shall stand dissolved and a new Executive Committee constituted.

(2) Notwithstanding the dissolution of the Executive Committee of the Life Insurance Council or the General Insurance Council, the outgoing members thereof shall continue to hold office and discharge such administrative and other duties as may be prescribed until such time as a new Executive Committee of the Life Insurance Council or the General Insurance Council, as the case may be, shall have been constituted.

64I. *Power of Executive Committee of Life Insurance Council to hold examinations for insurance agents.*—The Life Insurance Council may, with the approval of the Central Government, authorise its Executive Committee to hold examinations for individuals wishing to qualify themselves as insurance agents for the purpose of procuring life insurance business, and, if the Central Government, by notification in the official Gazette, so declares, then, notwithstanding anything contained in section 42, only individuals who have passed any such examination shall be eligible to apply for a licence under section 42:

Provided that nothing in this sub-section shall affect the right of any individual, who has been licensed to act as an insurance agent under section 42 before the date of such notification, to act as such, or to have his licence renewed from time to time.

64J. *Functions of Executive Committee of Life Insurance Council.*—(1) The functions of the Executive Committee of the Life Insurance Council shall be—

(*a*) to aid, advise and assist insurers carrying on life insurance business in the matter of setting up standards of conduct and sound practice and in the matter of rendering efficient service to holders of life insurance policies;

(*b*) to control the expenses of insurers carrying on life insurance business in respect of their life insurance business in India;

(*c*) to bring to the notice of the Controller-General the case of any insurer acting in a manner prejudicial to the interests of holders of life insurance policies;

(*d*) to act in any matter incidental or ancillary to any of the matters specified in clauses (*a*) to (*c*) as, with the approval of the Central Government, may be notified by the Life Insurance Council in the Gazette of India.

(*2*) For the purpose of enabling it effectively to discharge its functions, the Executive Committee of the Life Insurance Council may collect such sums of money, whether by way of fees or otherwise, as may be prescribed from all members of the Insurance Association of India who carry on life insurance business.

64K. *Power of Executive Committee of Life Insurance Council to control expenses.*—(*1*) The Executive Committee of the Life Insurance Council shall meet at least once before the 31st day of March every year and fix, with the approval of the Controller-General, the limits by which the actual expenses incurred by an insurer carrying on life insurance business in respect of such business in the preceding year may exceed the provision for expenses contained in the premiums received by him during such preceding year.

(*2*) In fixing any limits under sub-section (*1*), the Executive Committee of the Life Insurance Council shall have due regard to the conditions obtaining in life insurance business generally during that year and different limits may be fixed for different groups of insurers.

(*3*) Where an insurer is guilty of contravening the provisions of section 40B with respect to the expenses of management, the Executive Committee of the Life Insurance Council may, after giving him an opportunity of being heard, report the matter to the Controller-General for such action as is specified in sub-sections (*4*) to (*8*).

(*4*) On receipt of any report under sub-section (*3*), the Controller-General may administer a warning or warnings to the insurer.

(*5*) Where within a period of seven years two warnings have been given to an insurer under sub-section (*4*) and they have been disregarded by him; the Controller-General may cause an investigation and valuation, as at such date as the Controller-General may specify, to be made at the expense of the insurer by an actuary appointed by the insurer for this purpose and approved by the Controller-General, and the insurer shall place at the disposal of the said actuary all the materials required by him for the purpose of such investigation and valuation, within such period, not being less than three months, as the Controller-General may specify.

(*6*) The provisions of sub-sections (*1*) and (*4*) of section 13 and of sub-sections (*1*) and (*2*) of section 15, or, as the case may be, of

sub-section (2) of section 16 shall apply in relation to an investigation and valuation under this section:

Provided that the abstract and statement prepared as the result of such investigation and valuation shall be furnished by such date as the Controller-General may specify.

(7) There shall be appended to every such abstract a statement signed by the actuary giving such information as may be prescribed.

(8) On receipt of the abstract and statement furnished in accordance with sub-section (6), the Controller-General may take such action as may be prescribed.

64L. *Functions of Executive Committee of General Insurance Council.*—(1) The functions of the Executive Committee of the General Insurance Council shall be—

(a) to aid and advise insurers, not exclusively carrying on life insurance business, in the matter of setting up standards of conduct and sound practice and in the matter of rendering efficient service to holders of policies other than policies of life insurance;

(b) to control the expenses of such insurers carrying on business in India in the matter of commission and other expenses;

(c) to bring to the notice of the Controller-General the case of any such insurer acting in a manner prejudicial to the interest of holders of insurance policies (other than policies of life insurance);

(d) to act in any matter incidental or ancillary to any of the matters specified in clauses (a) to (c) as with the approval of the Central Government may be notified by the General Insurance Council in the Gazette of India.

(2) For the purpose of enabling it effectively to discharge its functions, the Executive Committee of the General Insurance Council may collect such fees as may be prescribed from all insurers carrying on general insurance business.

64M. *Power of Executive Committee of General Insurance Council to control expenses.*—(1) The Executive Committee of the General Insurance Council shall meet as soon as may be after it has been constituted under section 64F and fix, with the approval of the Controller-General, the limits of expenses of management including expenses on commission, in respect of the general insurance business carried on by insurers, and any limits so fixed shall have effect from the 1st day of January, 1950.

(2) The Executive Committee of the General Insurance Council shall meet at least once before the 31st day of March every year and may, having due regard to the conditions obtaining in the insurance

business in the preceding year, fix with the approval of the Controller-General the limits by which the actual expenses of management incurred by an insurer carrying on general insurance business in respect of his general insurance business in the preceding year may exceed the expenses permissible under sub-section (*1*) and different limits may be fixed for different insurers.

(*3*) Where an insurer is guilty of contravening the provisions of section 40C with respect to the expenses of management, the Executive Committee of the General Insurance Council may, after giving him an opportunity of being heard, report the matter to the Controller-General for such action as is specified in sub-sections (*4*) and (*5*).

(*4*) On receipt of any report under sub-section (*3*), the Controller-General may administer a warning or warnings to the insurer.

(*5*) Where in any case two warnings given to an insurer under sub-section (*4*) have been disregarded by him, the Controller-General may take such action against the insurer as may be prescribed.

64N. *Power of General Insurance Council to regulate rates of insurance, etc.*—(*1*) The General Insurance Council may, by regulations made in this behalf and approved by the Central Government, control and regulate the rates, advantages, terms and conditions that may be offered by its members in respect of general insurance business, and all such regulations shall be binding on all its members.

(*2*) Any regulation made under sub-section (*1*) may delegate to a Tariff Committee, appointed for such period and consisting of such persons as may specified in such regulations, any power of control and regulation vested in the General Insurance Council.

(*3*) Where an insurer is guilty of contravening any regulation made under sub-section (*1*) by which he is bound, the Tariff Committee, if any, appointed under sub-section (*2*) may take such disciplinary action against him as may be prescribed.

(*4*) The Central Government may prescribe the cases in which an appeal shall lie in respect of any action taken under sub-section (*3*), and any such appeal shall be preferred to the Central Government within thirty days of the date on which such action was taken.

(*5*) The General Insurance Council shall meet at least once a year to review the work done by the Tariff Committee appointed under sub-section (*2*).

(*6*) For the purpose of enabling the Tariff Committee to effectively discharge its functions under this section, the General Insurance Council may, by regulations made in his behalf and approved by the Central Government, fix the amount of fees payable by insurers carrying on general insurance business, and the Tariff Committee appointed under sub-section (*2*) may collect such fees either directly or through Regional Council constituted as hereinafter provided.

*Explanation.*—For the purposes of section 64N, section 64O and section 64P, the Central Government may, by notification in the official Gazette, specify that any insurer or class of insurers, shall not be deemed to be included amongst insurers carrying on general insurance business, any insurer so specified shall not take part in any meeting of the General Insurance Council in which any discussion of any matter dealt with in the said sections takes place.

64O. *Regional Councils.*—(*1*) The General Insurance Council may constitute such Regional Councils as and when it deems fit for one or more of the prescribed regions.

(*2*) Each Regional Council shall consist of seven persons elected by such groups of insurers carrying on general insurance business in the region as may be prescribed.

64P. *Functions of the Regional Councils.*—(*1*) The Regional Councils shall perform such functions as may be delegated to them by the General Insurance Council.

(*2*) For the purpose of enabling it effectively to discharge its duties, any Regional Council may in the prescribed manner constitute such Committees thereof as it may think fit, whether consisting of members of the Regional Council or otherwise.

(*3*) Where in the exercise of any functions delegated to it under this section, any Regional Council or any Committee thereof restrains a principal agent or an insurance agent from procuring or causing to be procured general insurance business from any area, any such principal agent or insurance agent may appeal to the Central Government within such time as may be prescribed and the Central Government may pass such orders thereon as it thinks fit.

64Q. *General powers of Life Insurance Council and General Insurance Council.*—(*1*) For the efficient performance of its duties, the Life Insurance Council or the General Insurance Council, as the case may be, may—

(*a*) appoint such officers and servants as may be necessary and fix the conditions of their service;

(*b*) determine the manner in which any prescribed fee may be collected;

(*c*) keep and maintain up to date a copy of the list of all insurers who are members of the Insurance Association of India;

(*d*) with the previous approval of the Central Government, make regulations for—

(*i*) the holding of elections other than the first election;

(*ii*) the summoning and holding of meetings, the conduct of business thereat and the number of members necessary to form a quorum;

(*iii*) the submission by insurers to the Executive Committee of the Life Insurance Council or the General Insurance Council of such statements of information as may be required of them and the submission of copies thereof by the insurers to the Controller-General;

(*iv*) the levy and collection of any fees;

(*v*) the regulation of any other matter which may be necessary for the purpose of enabling it to carry out its duties under this Act.

(*2*) The Life Insurance Council or the General Insurance Council may authorise the Executive Committee concerned or the Tariff Committee appointed under section 64N to execise any of the powers conferred on the Life Insurance Council or the General Insurance Council, as the case may be, under clause (*a*), clause (*b*) or clause (*c*) of sub-section (*1*).

64R. *Power of Central Government to remove difficulties.*—The Central Government may exercise such powers as may be necessary for bringing the Life Insurance Council, the General Insurance Council or the Executive Committee of any of the said councils, as the case may be, into effective existence for the purposes of this Part, and any such powers shall include—

(*a*) the power to hold, in such manner as may be directed by the Central Government, the first elections to the Executive Committees of the Life Insurance Council and the General Insurance Council;

(*b*) where a notification under sub-section (*1*) of section 64A has been issued declaring provident societies to be members of the Insurance Association of India, the power to associate provident societies effectively in the exercise of all powers and the discharge of all functions of the Life Insurance Council and the Executive Committee thereof;

(*c*) the power to make the provisions of section 40B applicable to the provident societies specified in clause (*b*) in the same manner as they apply to insurers.

64S. *Power to exempt.*—The Central Government may, subject to such conditions and restrictions as it may think fit to impose, exempt any insurer specified in sub-clause (*c*) of clause (*9*) of section 2 from the operation of all or any of the provisions of this Part."

46. **Amendment of section 65, Act IV of 1938.**—In sub-section (1) of section 65 of the said Act, for the words "nine hundred" the words "one thousand" shall be substituted.

**47. Insertion of new section 65A in Act IV of 1938.**—After section 65 of the said Act, the following section shall be inserted, namely:—

"65A. *Prohibition of transaction of insurance business by provident societies other than public companies or co-operative societies.*—No person shall, after the commencement of the Insurance (Amendment) Act, 1949, begin to carry on any business specified in sub-section (*1*) of section 65, and no provident society carrying on any such business in the Provinces shall, after the expiry of one year from such commencement, continue to carry on any such business, unless he or it is—

(*a*) a public company, or

(*b*) a society registered under the Co-operative Societies Act, 1912 (II of 1912) or under any other law for the time being in force in any Province of India relating to co-operative societies, or

(*c*) a body corporate incorporated under the law of any country or State outside the Provinces of India."

**48. Omission of section 68, Act IV of 1938.**—Section 68 of the said Act shall be omitted.

**49. Amendment of section 70, Act IV of 1938.**—In section 70 of the said Act,—

(*1*) in sub-section (*3*), for the figures "67" the figures and letter "65A, 67" shall be substituted;

(*2*) in sub-section (*4*),—

(*i*) at the end of sub-clause (*ii*) of clause (*a*), the word "or" shall be inserted;

(*ii*) clause (*b*) shall be omitted; and

(*iii*) after clause (*a*) of the second proviso, the following clause shall be inserted, namely:—

"(*aa*) cancel the registration of a provident society if any deposit required by section 73, has not been made, or".

**50. Amendment of section 71, Act IV of 1938.**—In section 71 of the said Act,—

(*i*) for the words, figures and letter "sections 20, 32, 46 and 53A" the words, figures, brackets and letters "sub-sections (*2*) and (*3*) of section 10, section 20, sub-section (*1*) of section 27, sections 27A, 28, 29, 31A, 31B, 32, 46 and 53A" shall be substituted;

(*ii*) after the words "members of a provident society" the words and figures "and references to section 7 or section 98 shall be construed as references to section 73" shall be inserted.

**51. Amendment of section 82, Act IV of 1938.**—To sub-section (*2*) of section 82 of the said Act, the following proviso shall be added, namely :—

"Provided that the Central Government may in any case extend the time allowed by this sub-section for the furnishing of such return by a period not exceeding three months."

**52. Amendment of section 85, Act IV of 1938.**—In section 85 of the said Act, sub-section (*1*) shall be omitted.

**53. Amendment of section 91, Act IV of 1938.**—In sub-section (*1*) of section 91 of the said Act,—

(*i*) the word "and" at the end of the clause (*f*) shall be omitted; and

(*ii*) after clause (*g*) the following clause shall be inserted, namely:—

"(*h*) to sell the immovable and movable property of the society by public auction or private contract, with power to transfer the whole thereof to any person or society or to sell the same in parcels."

**54. Amendment of section 92, Act IV of 1938.**—In section 92 of the said Act,—

(*1*) In sub-section (*4*)—

(*i*) for the words "the Superintendent of Insurance shall appoint a suitable person," the words "the Controller-General may, if he thinks fit, appoint a suitable person" shall be substituted; and

(*ii*) for the words "and if so desired, shall also appoint a committee of inspection," the words "and if he considers it desirable, may also appoint a committee of inspection" shall be substituted.

(*2*) In sub-section (*11*) after the words "forwarded by the liquidator" the words "within one week after the meeting" shall be inserted.

**55. Amendment of section 94, Act IV of 1938.**—In section 94 of the said Act, sub-section (*2*) shall be omitted.

**56. Amendment of section 98A, Act IV of 1938.**—In section 98A of the said Act, the words, figures and brackets "so however that in such application the references in the second proviso to sub-section (*1*) of the said section to the commencement of this Act shall be construed as references to the commencement of the Insurance (Amendment) Act, 1946" shall be omitted.

**57. Amendment of section 100, Act IV of 1938.**—In section 100 of the said Act, for the words "publish such notices or documents" the words "publish such notice together with a summary in the prescribed form of the balance-sheet and revenue account" shall be substituted.

**58. Amendment of the section 102, Act IV of 1938.**—In section 102 of the said Act,—

(*i*) for the word "default", wherever it occurs except for the first time, the words "default or contravention" shall be substituted;

(*ii*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) The provisions of sub-section (*1*) shall apply in respect of principal agents, chief agents and special agents as they apply in respect of an insurer."

**59. Insertion of new section 110C in Act IV of 1938.**—After section 110B of the said Act, the following section shall be inserted, namely:—

"110C. *Power to call for information.*-(*1*) The Controller-General may, by notice in writing, require any insurer to supply him with any information relating to his insurance business, and the insurer shall comply with such requirement within such period after receipt of the notice as may be specified therein.

(*2*) Any information supplied under this section shall be certified by a principal officer of the insurer and if the notice so requires also by an auditor."

**60. Amendment of section 116, Act IV of 1938.**—In sub-section (*1*) of section 116 of the said Act,—

(*i*) for the words "an Acceding State or other Indian State" the words "any country or State outside the Provinces of India" shall be substituted; and

(*ii*) the proviso shall be omitted.

**61. Amendment of section 116A, Act IV of 1938.**—To the proviso to section 116A of the said Act, after the words and figures "of section 28", the words figures, brackets, and letters "or section 28A, or the statements referred to in sub-section (*2*) of section 31B or section 40B" shall be added.

**62. Amendment of section 118, Act IV of 1938.**—In section 118 of the said Act, at the end of clause (*b*), the word "or" shall be inserted and after that clause, the following clause shall be added, namely:—

"(*c*) any approved superannuation fund as defined in clause (*a*) of section 58N of the Indian Income-tax Act, 1922 (XI of 1922)."

**63. Amendment of the First Schedule, Act IV of 1938.**—In the First Schedule to the said Act,—

(*i*) in Part I, in clause (*c*) of regulation 7, for the words "a certificate signed by" and the words "parts of the assets", the

words "where the balance sheet relates either wholly or in part to life insurance business, a certificate signed by" and the words "part of the assets" shall respectively be substituted;

(*ii*) in Form A, in the first column, for the item "Life Insurance Fund" the following shall be substituted, namely:—

"Life Insurance Fund—

(*i*) Business in India,

(*ii*) Business outside India".

**64. Amendment of the Third Schedule, Act IV of 1938.**—In the Third Schedule to the said Act,—

(*1*) in Part I, after regulation 7, the following regulation shall be inserted, namely:—

"7A. In addition to the revenue account, information shall also be supplied of the gross claims payable directly by the insurer in India (that is to say, the claims without taking into account claims on reinsurance ceded or accepted) separately for fire, marine and miscellaneous insurance business and the provisions of sections 20 and 116A shall not apply to any information so supplied."

(*2*) In Part II, in Form F,—

(*a*) in the first column, for the item "commission" the following items shall be substituted, namely:—

"Commission on direct business... .....

Commission on Reinsurances accepted."

(*b*) in the third column, before the item "Other Income (to be specified)", the following item shall be inserted, namely:—

"Commission on Reinsurances ceded....."

**65. Insertion of new Schedule in Act IV of 1938.**—In the said Act, the "Sixth Schedule" shall be re-numbered as the "Seventh Schedule" and before that Schedule as so re-numbered, the following Schedule shall be inserted, namely:—

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## "THE SIXTH SCHEDULE.

### PART A.

[*See* section 42B (*1*)]

*Terms deemed to be included in every contract between an insurer carrying on general insurance business and a principal agent.*

1. All payments of commission to insurance agents shall be made by the principal agent on behalf of the insurer.

2. The principal agent shall procure or cause to be procured through insurance agents such an amount of general insurance business of any class for the procurement of which he has been appointed, as will yield a gross premium income of not less than twenty thousand rupees in each calendar year.

3. In the event of the principal agent failing in any calendar year to comply with the requirements of clause 2, he shall forfeit to the insurer—

(*i*) one-quarter of the total remuneration payable to him by the insurer for that year, if the class of business for the procurement of which he has been appointed is fire or miscellaneous insurance business, or

(*ii*) one-third of the total remuneration payable to him by the insurer for that year, if the class of business for the procurement of which he has been appointed is marine insurance business.

4. In the event of the principal agent failing to comply with the requirements of clause 2 in any two successive calendar years, the contract shall, without prejudice to the provisions of clause 3, terminate on the 31st day of March immediately following the second calendar year.

5. A principal agent shall not by himself procure any class of general insurance business without utilising the services of an insurance agent.

## PART B.

[*See* section 42C (*1*).]

*Terms deemed to be included in every contract between an insurer carrying on life insurance business and a chief agent.*

1. All payments of commission to insurance agents shall be made by the insurer direct or by the chief agent, who may make the payment either directly or through a special agent on behalf of the insurer.

2. The chief agent shall employ or cause to be employed for and on behalf of the insurer either directly or through special agents at least twelve insurance agents in cases where the business in force of the insurer is less than one crore of rupees or in any other case at least twenty-four agents each of whom will procure in each calendar year new business amounting to not less than ten thousand rupees.

3. Save as provided in respect of cases specified in clause 7 of this Part, the remuneration payable to the chief agent in respect of life insurance business effected through him for the insurer shall only be in the form of an overriding commission.

4. In the event of the chief agent failing in any calendar year to comply with the requirements of clause 2, he shall forfeit to the insurer one-half of the total remuneration payable to him by the insurer for that year.

5. In the event of the chief agent failing to comply with the requirements of clause 2 in two successive calendar years, the contract shall, without prejudice to the provisions of clause 4, terminate on the 31st day of March immediately following the second calendar year.

6. Not more than one intermediary to be remunerated by the insurer concerned, whether on a salary basis or by way of commission shall be employed between the chief agent and the insurance agent; but the chief agent may employ as many persons as he thinks fit on a salary basis, provided such salaries are paid out of his overriding commission.

7. In cases where the commission payable on a policy of life insurance effected through an insurance agent working under a chief agent is stopped by the insurer and not paid to the insurance agent, an amount not exceeding one-quarter of such commission payable to the insurance agent concerned may also be payable to the chief agent, if he continues to render service in connection with that policy.

## PART C.

[*See* section 42C (5).]

*Terms deemed to be included in every contract between an insurer carrying on life insurance business and a special agent or between a chief agent and a special agent.*

1. All payments of commission to insurance agents shall be made by the insurer direct or, on behalf of the insurer, either by the chief agent under whom the special agent is working or by the special agent.

2. The special agent shall employ at least four insurance agents in cases where the business in force of the insurer is less than one crore of rupees, or in any other case, at least eight insurance agents each of whom will procure in each calendar year new business amouting to not less than ten thousand rupees assured.

3. In the event of the special agent failing in any calendar year to comply with the requirements of clause 2, he shall forfeit to the insurer fifty per cent of the total remuneration payable to him by the insurer, or, as the case may be, by the chief agent, for that year.

4. In the event of the special agent failing to comply with the requirements of clause 2 in two successive calendar years, the contract shall, without prejudice to the provisions of clause 3 of this Part

terminate on the 31st day of March immediately following the second calendar year.

5. The remuneration payable to the special agent in respect of policies of life insurance effected through him shall only be in the form of an overriding commission.

*Explanation.*—In this Schedule "business in force" means the total sum assured with bonuses, without taking into account reinsurances, ceded or accepted, by an insurer in respect of the whole of the life insurance business on the last working day of the calendar year or the period covered by the revenue account furnished by such insurer under clause (*b*) of sub-section (*2*) of section 16, as the case may be, preceding the calendar year in question.

## STATEMENT OF OBJECTS AND REASONS.

A Bill to amend the Insurance Act, 1931, was pending in the Constituent Assembly (Legislative) and it was with the permission of the House withdrawn in January 1948, in order to enable reconsideration of the provisions thereof in the light of the changed conditions arising out of the Partition and the changed constitutional position. That Bill contained provisions designed to implement the main recommendations made in 1945 by a Committee constituted under the Chairmanship of Sir Cowasjee Jehangir. That Committee, it may be recalled, went into the question of frequent changes in the management of Insurance Companies and other undesirable features in the administration of Insurance Companies. There were also, in the Bill, other provisions limiting the commission method of payment of remuneration and placing a limitation on the expenses of insurers, and was in the form in which the Select Committee of the old Legislative Assembly had altered it in March 1947.

2. The Government appointed an Informal Committee of persons knowledgeable in insurance matters to examine the provisions of the above Bill and also to review all the provisions of the Insurance Act with a view to suggesting suitable amendments having regard to the changed circumstances. The report of this Committee was further considered by the Insurance Advisory Committee and the present Bill aims to incorporate in the law provisions which Government, in the light of all this further examination, consider desirable.

3. This Bill incorporates the main provisions in the old Bill which aim at: (*i*) making it difficult for designing financiers to get control of insurance companies or to use insurance funds for speculative purposes, and (*ii*) preventing interlocking of interests between insurance companies and banks. In the matter of limitation of over-all expenses, however, present opinion is that it would be inadvisable to

follow the somewhat rigid lines of the provisions in the old Bill. Instead, it is proposed that a statutorily recognised association of insurers should be formed with two executive committees—one for the life business and the other for the general business—to determine annually the reasonable limits for expenses of insurers having regard to all the circumstances relevant thereto during the year and to recommend to Government action in respect of those that exceed the reasonable limit.

4. Provisions have also been included to strengthen Government's control over insurers by inspection of the insurers' books, whenever required, to liberalise the conditions of service of insurance agents and to enable the conversion by a less tedious procedure of proprietary joint stock insurance companies into 'mutual' companies. It is also proposed to institute a class of Approved Investments, and to refix the minimum proportions of the Indian Life Fund that should remain invested in Government securities, Approved Securities and Approved Investments.

5. Brief explanatory notes on the clauses of the Amending Bill are given in the annexed Notes on Clauses.

NEW DELHI; K. C. NEOGY.
*The 7th November 1949.*

NOTES ON CLAUSES.

*Clause 2* seeks to extend the Insurance Act to the States for which the Dominion Legislature can legislate on the subject of insurance.

*Clause 3*, among other matters, enlarges the scope of "approved securities" by including shares of any Corporation whose principal and dividend are guaranteed by the Central or a Provincial Government and, to the extent that such securities were held prior to partition, securities which have now become Pakistan Government securities and Karachi Port Trust securities:

brings the definitions of "auditor" and "Government security" up-to-date;

adds definitions of "banking company" "chief agent", "investment company", "principal agent", "private company" and "special agent"; and

defines the classes of fire, life, marine and miscellaneous insurance business.

*Clause 4* changes the designation of the Superintendent of Insurance.

*Clause 5* clarifies the rule of constructions in applying the Act to the Acceding States and provides for the appointment of the Controller-General of Insurance.

*Clauses 6* and *47* provide that only a public company or a Co-operative society shall carry on insurance business. Power to grant exemption to cover cases such as superannuation funds is retained.

*Clause 7* provides for cancellation of the registration of an insurer who carries on any business other than insurance or business incidental thereto and for reviving the cancellation under certain circumstances.

*Clause 8* rectifies a small drafting defect.

*Clause 9* provides that a life insurance company should have only ordinary shares with voting rights proportionate to the paid-up capital and should maintain a register showing the beneficial owners of its shares and further makes provision for altering the existing capital structure suitably with the sanction of the Central Government. It also provides for the conversion of a proprietary company into a mutual company through a scheme sanctioned by the Central Government.

*Clause 10.* Sub-clause (*i*) is merely consequential; sub-clause (*ii*) places United Kingdom insurers on a par with other non-Indian insurers in the matter of instalments towards deposits.

*Clause 11* extends the time allowed for the submission of the statement of life assets and prescribes the manner of preparing such statement.

*Clause 12* requires details as to the occupation and other directorships of the directors, managers and others to be furnished.

*Clause 13* provides for an actuarial valuation every three yaars instead of every five years.

*Clauses 14 and 15* are clarificatory.

*Clause 16* reduces by 5 per cent the quantum of compulsory investments to be held in Government and approved securities, prescribes the proportions to be held in these and provides that investments shall be held free of any encumbrance. United Kingdom Government securities will also cease to be authorised investments for this purpose and time is allowed for the change over. Non-Indian insurers should hold their compulsory investments in India.

*Clause 17* institutes a class of "Approved Investments" and places certain restrictions on the investment of life insurance fund and certain other funds of an insurer including restrictions on the amount that can be kept by an insurer in the shares of any one banking, investment or joint-stock company and on the amount that can be kept in deposit with any one banking company. It also provides for requiring an undesirable or unsuitable investment to be vacated.

*Clause 18.* Sub-clause (*i*) is formal. Sub-clause (*ii*) provides for the furnishing of periodical certificates to the effect that investments constituting the controlled funds are generally held free of any encumbrance.

*Clause 19* provides for the reporting of changes in the investments constituting the life insurance fund and certain other funds quarterly to the Controller-General of Insurance.

*Clause 20* places further restrictions on loans that may be granted by a life insurance company.

*Clause 21* makes the management of an insurance company as distinct from the company itself liable for losses resulting from unapproved investments.

*Clause 22* is clarificatory.

*Clause 23* seeks to restrict commission method of remuneration to chief, principal, special and insurance agents, to prohibit nomination of a successor or assignment of office by a manager, managing director, or other officer and to check payment of excessive remuneration to insurance executives.

*Clause 24* seeks to prohibit insurers and banks from having common officers and requires insurers of more than a certain size to have only whole-time officers.

*Clause 25* authorises the Central Government to order investigation of the affairs of an insurer and after investigation to secure appropriate action being taken.

*Clause 26, 27 and 28* provide for the Controller-General sanctioning schemes for the transfer and amalgamation of the business of insurers.

*Clause 29* provides for the appointment of a guardian to receive policy-moneys on behalf of a minor nominee.

*Clause 30* contains amendments consequential to the provisions in clause 31.

*Clauses 31 and 45* provide for the control of over-all expenses of all insurers through the medium of a statutory association of insurers and two Councils operating through two Executive Committees with Government representation, one being for life and the other for general insurance. The General Insurance Council is also to regulate the tariff rates and conditions. Maximum rates of commission to insurance agents and special agents in life insurance business and to insurance agents and principal agents in general insurance business are prescribed.

*Clause 32* provides for triennial licences instead of annual licences for insurance agents.

*Clauses 33 and 65* provide for the licensing of principal, chief and special agents and the cancellation of such licences and also regulate the terms of employment, activities and contracts of principal, chief and special agents.

*Clause 34* liberalises the conditions for compulsory continuance of payment of renewal commission to an insurance agent.

*Clause 35* provide authority to call for information regarding matters specified in clauses 31 and 33.

*Clause 36* omits the time-limit within policy-moneys can be paid into Court.

*Clause 37* provides for referring disputes relating to claims on small life insurance policies to the Controller-General of insurance.

*Clause 38* provides that a life insurance company should have at least two policy-holders' directors and disqualifies ex-employees for a period of five years from such directorships, with an exception in the case of the chief executive.

*Clause 39* is formal.

*Clause 40* prohibits Indian life insurance companies from having common directors except under certain limited cicumstances.

*Clause 41* limits the part of surplus allocated to the shareholders.

*Clause 42* provides for the appointment of an administrator to manage the affiairs of an insurer under certain circumstances and for the Controller-General to take necessary action with regard to the future of the insurer, after getting a report from the Administrator.

*Clause 43* is consequential.

*Clause 44* provides for an annual certificate that section 64 is being complied with.

*Clause 46* raises the upper limit for policies issued by provident societies from Rs. 900 to Rs. 1,000.

*Clause 48* and *55* omit certain provisions thus placing provident societies on a par with insurers in this respect.

*Clause 49* sub-clause (*1*) is consequential. Sub-clause (*2*) provides for cancellation of registration of a provident society, for non-payment of deposit, without going to Court.

*Clauses 50* and *52* apply to provident societies certain provisions applicable to insurers.

*Clause 51* provides for an extension of time for furnishing valuation returns and for a clarification.

*Clause 53* clarifies the power of the liquidator of a provident society to sell its property.

*Clause 54* authorises the exercise by the Controller-General of some discretion in appointing a liquidator or committee of inspection and prescribes a time-limit for liquidators' report.

*Clause 56* makes a consequential change.

*Clause 57* makes some formal changes.

*Clause 58* (*i*) corrects a drafting flaw

(*ii*) makes principal, chief and special agents liable to be prosecuted for any contravention of the Act.

*Clause 59* requires an insurer to supply any information relating to his business required by the Controller-General.

*Clause 60* extends the scope—for granting exemptions where necessary from the provisions of the Act.

*Clause 61* is consequential.

*Clause 62* permits the grant of exemptions from the necessity of complying with the provisions of the Act to an approved superannuation fund.

*Clauses 63* and *64* are formal and clarificatory.

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# PART IV

## Section I-B

## ACTS OF THE CENTRAL LEGISLATURE AND ORDINANCES OF THE GOVERNOR-GENERAL WHICH APPLY TO MYSORE.

### NOTIFICATION.

No. Rl. 772—Legis. 18-49-7, dated Bangalore, 28—29th November 1949.

Ordered that the accompanying Nawab Salar Jung Bahadur (Administration of Assets) Ordinance, 1949, [Ordinance No. XXIX of 1949] published in Gazette of India, Extraordinary dated 12th November 1949 be republished in *Mysore Gazette* for general information.

By Order,
B. S. PUTTASWAMY,
*Legal Remembrancer and Secretary to Government, Law Department.*

GOVERNMENT OF INDIA.

**MINISTRY OF LAW.**

*New Delhi, the 12th November*, 1949.

ORDINANCE No. XXIX OF 1949.

AN

ORDINANCE.

*to provide for the administration of the assets of the late Nawab Salar Jung Bahadur of Hyderabad and for matters connected therewith.*

WHEREAS Nawab Salar Jung Bahadur of Hyderabad died on the 2nd day of March, 1949, leaving assets in India, and there is no person immediately available who is legally entitled to such assets;

AND WHEREAS an emergency has arisen which makes it necessary to provide for the administration of the assets in India of the late Nawab Salar Jung Bahadur of Hyderabad, and for matters connected therewith, pending the determination of the question as to who may be legally entitled to succeed to the assets;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance :—

**1. Short title, extent and commencement.**—(1) This Ordinance may be called the Nawab Salar Jung Bahadur (Administration of Assets) Ordinance, 1949.

(2) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Ordinance.

(3) It shall come into force at once.

**2. Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(*a*) "assets" means all the items of property of the Nawab specified in the Schedule, and includes any other item of property added to the Schedule by notification under section 7.

(*b*) "Committee" means the Salar Jung Estate Committee appointed for the purpose of administering the estate of the Nawab under the Salar Jung Estate (Administration) Regulation (No. XXXIV of 1358F) of Hyderabad;

(*c*) "Nawab" means Nawab Salar Jung Bahadur of Hyderabad who died on the 2nd day of March, 1949; and

(*d*) "Schedule" means the Schedule to this Ordinance.

**3. Vesting of assets in Committee.**—All the assets specified in the Schedule shall vest in the Committee and shall be administered by the Committee subject to the control of the Central Government.

**4. Powers of the Committee.**—(1) Subject to any rules that may be made in this behalf, the Committee may take such measures as it considers necessary or expedient for the purposes of administering and managing the assets which have vested in it and may, for any such purpose, do all acts and incur all expenditure necessary or incidental thereto.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Committee may, for any of the purposes aforesaid,—

(*a*) operate on any account standing in the name of the Nawab in any banking company;

(*b*) take such action as may be necessary for the recovery of any debt due to the Nawab;

(*c*) transfer in any manner whatsoever the assets or any part thereof;

(*d*) invest or re-invest any asset in such security as the Committee may think fit.

(3) The Committee may, for the more convenient exercise of any of its powers, authorise, by resolution, any of its members to act on behalf of the Committee in respect of such matters as may be specified.

**5. Payment to Committee to be valid discharge.**—(1) Any payment made to the Committee in the discharge of any obligation in relation to any asset shall be a full and valid discharge to the person making the payment from all liability in respect thereof.

(2) Any payment made otherwise than in accordance with sub-section (1) shall not be deemed to discharge the person paying it from his obligation to make the payment and shall not affect the right of the Committee to enforce such obligation against that person.

**6. Transfers otherwise than by Committee or without its consent void.**—(1) Any transfer or other disposition of any asset made by any person after the 2nd day of March, 1949, and before the commencement of this Ordinance, shall be void and shall be deemed always to have been void unless confirmed by the Committee.

(2) Any transfer or other disposition of any asset purporting to be made by any person other than the Committee after the commencement of this Ordinance shall be void and of no effect, and, notwithstanding anything contained in any law for the time being in force, the asset shall be deemed to be and always to have been vested in the Committee.

**7. Power to add to Schedule.**—The Central Government may, by notification in the official Gazette, add to the items of property in the Schedule any other item which in its opinion represents property belonging to the Nawab, and on the issue of such notification, any property so added, shall be deemed always to have been included in the Schedule.

**8. Bar of jurisdiction.**—No suit or other legal proceeding for the enforcement of any rights or remedies in respect of any asset shall be instituted in any Court by any person other than the Committee save with the previous consent of the Central Government.

**9. Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding shall lie against the Committee for anything which is in good faith done or intended to be done in pursuance of this Ordinance.

**10. Power to make rules.**—The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance and, in particular, for the effective exercise of the powers vested in the Committee under this Ordinance.

# SCHEDULE.

(*See* section 2).

## ASSETS OF THE LATE NAWAB SALAR JUNG BAHADUR.

### Shares.

| Item No. | Description of property | No. of shares | Amount | In whose custody | Remarks |
|---|---|---|---|---|---|
| | | | Rs. | | |
| 1 | Government Promissory Notes 1896-97. | 4 | 12,000 | Imperial Bank of India, Hyderabad Deccan. | |
| 2 | The Tata Hydro-Electric Power Supply Co. Ltd., (Bombay). | 180 Ordinary. | 18,000 | Do | |
| 3 | Do ... | 500 7 per cent Preference. | 50,000 | Do | |
| 4 | The Andhra Valley Power Supply Co. Ltd., (Bombay). | 50 Ordinary. | 50,000 | Do | |
| 5 | The Tata Power Co. Ltd., (Bombay). | 110 Ordinary. | 1,10,000 | Do | |
| 6 | Do ... | 100 7 per cent Preference. | 1,00,000 | Do | |
| 7 | The Tata Iron and Steel Co. Ltd., (Bombay). | 300 7½ per cent Second preference. | 30,000 | Do | |
| 8 | The Indian Iron and Steel Co. Ltd., (Calcutta). | 1,500 Ordinary. | 15,000 | Do | |
| 9 | The Associated Cement Companies Ltd., (Bombay). | 19,209 Ordinary. | 19,20,900 | 18,583 shares in the custody of the Central Bank of India, Ltd., (Bombay). | Pledged as security against overdraft. |
| 10 | Do ... | ... | ... | 626 shares in the custody of the Imperial Bank of India, (Hyderabad Deccan). | |
| 11 | The British India Corporation, Ltd., (Calcutta). | 10,067 Ordinary. | 50,335 | Imperial Bank of India, (Hyderabad Deccan). | |
| 12 | Spencer & Co. Ltd., (Madras) ... | 860 Ordinary. | 8,600 | Do | |
| 13 | Do ... | 10,012 6½ per cent 'A' Preference. | 1,00,120 | Do | |
| 14 | Do ... | 4,248 8½ per cent 'B' Preference. | 42,480 | Do | |
| 15 | P. Orr & Sons Ltd., (Madras) ... | 250 6 per cent Preference. | 25,000 | Do | |
| 16 | Powells Ltd., (Bombay) ... | 200 | 5,000 | Do | |
| 17 | The Buckingham and Carnatic Co. Ltd., (Madras). | 650 Ordinary. | 65,000 | Do | |
| 18 | Young India Cotton Mills Ltd., (Calcutta). | 200 Ordinary. | 5,000 | Do | |
| 19 | Imperial Bank of India, (Bombay Reg). | 155 Fully paid. | 77,500 | Central Bank of India, Ltd., Bombay. | Do |
| 20 | Do ... | 560 Contributory. | 70,000 | Do | Do |
| 21 | Imperial Bank of India, (Calcutta Reg). | 7 Fully paid. | 3,500 | Do | Do |
| 22 | Do ... | 14 Contributory. | 1,750 | Do | Do |

| Item No. | Description of property | No. of shares | Amount | In whose custody | Remarks |
|---|---|---|---|---|---|
| | | | Rs. | | |
| 23 | The Central Bank of India Ltd., (Bombay). | 1,500 Rs. 25 paid up. | 37,500 | Imperial Bank of India, Hyderabad Deccan. | |
| 24 | Do ... | 300 'A' | 7,500 | Do | |
| 25 | Jupiter General Insurance Co. Ltd., (Bombay). | 750 6½ per cent Preference. | 7,500 | Do | |
| 26 | Do ... | 100 Ordinary. | 1,500 | Do | |
| 27 | The Madras Swadeshi Emporium Ltd., (Madras). | 500 | 5,000 | Do | |
| 28 | The Vulcan Insurance Co. Ltd., (Bombay). | 1,600 | 16,000 | Do | |
| 29 | The Bombay Electric Supply and Tramways Co. Ltd. (In voluntary liquidation). | 265 Ordinary. | 13,250 | Do | |
| 30 | The Industrial and Prudential Assurance Co. Ltd., (Bombay). | 300 Ordinary. | 1,800 | Do | |
| 31 | The Deccan Tobacco Works Ltd., (Poona). | 200 Ordinary. | 8,000 | Do | |

## Life Insurance Policies.

| Item No. | Name of Company | Policy No. | Amount | In whose custody | Remarks |
|---|---|---|---|---|---|
| | | | Rs. | | |
| 32 | The Prudential Assurance Co. Ltd. | 3600081 | 1,00,000 | With Company. | |
| 33 | The Gressham Life Assurance Society Ltd. | 784360 | 2,75,000 | Do | |
| 34 | The Bombay Life Assurance Co. Ltd. | 42537 | 2,00,000 | Do | |
| 35 | The North British and Mercantile Insurance Co. Ltd., (Calcutta). | 09927-P | £2,000 | Do | |
| 36 | The Hindustan Co-operative Insurance Society, Ltd | 109450 | 50,000 | Do | |
| 37 | Allianz Und Stuttgarter Life Insurance Bank Ltd., (New Delhi). | HZ-5994 | 10,000 | ... | Deducted under instructions from the Government of India, on policy which matured in 1948. |

## Bank Deposit.

| Item No. | Description of property | Amount | Remarks |
|---|---|---|---|
| | | Rs. a. p. | |
| 38 | Current Account with Imperial Bank of India (Bombay). | 95,625 2 8 | (Up to 30-4-1949) |
| 39 | House in Ootacamund "Woodcock Hall." | Salar Jung Estate Committee. | |
| 40 | House in Poona "Gladhurst" ... | Do | |

C. RAJAGOPALACHARI,
*Governor-General.*

1-B

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# PART IV

## Section I-C

**NOTIFICATIONS, RULES, ORDERS, Etc., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.**

### NOTIFICATION.

No. S.D. 5598—C. 78-49-28, dated Bangalore, 3rd January 1950.

In exercise of the powers conferred by Rules 75-A, 75-B and Rule 81 of the Defence of India Rules as applied to Mysore and continued by the Supplies, Services and Miscellaneous Provisions (Temporary Powers) Act XX of 1947 and of all the other powers enabling them in this behalf, the Government of His Highness the Maharaja are pleased to direct that the following shall be substituted for Clause 17 (*i*) of the Articles of Food Acquisition (Harvest) Order, 1949, issued under Notification No. S.D. 4054—C. 78-49-4, dated 21st November 1949, *viz.*,

"17 (1): All movement or transport of foodgrains from one place to another is prohibited except when such movement is authorised by a permit, issued for the purpose by a competent authority appointed by Government".

2. Government further direct that with reference to Rule 119 of the said rules notice of this amendment shall be given by publication of the same in the official Gazette and by the issue of a Press Note summarising and explaining its provisions.

A. S. KHALEEL,
*Public Health, Food and Civil Supplies Secy.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

# PART IV

## Section 2-B

## NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS.

## NOTIFICATIONS.

No. H. 9065, dated Bangalore, the 19th December 1949.

In exercise of the powers conferred by Section 56 of the Mysore Police Act, 1908 (V of 1908), the Government of His Highness the Maharaja are pleased to extend all the provisions of the said section to Bindiganavale Village, Nagamangala Taluk, Mandya District.

K. SRINIVASAN, *Chief Secy.*

No. L.S. 2437—L.W. 148-49-2, dated Bangalore, the 29th December 1949.

In exercise of the powers conferred under sub-section 2 (m) of Section 7 of the Payment of Wages Act, 1948, the Government of His Highness the Maharaja of Mysore are pleased to authorise the Management of the Sri Krishnarajendra Mills, Ltd., Mysore, to collect the membership subscription of members of the Sri Krishnarajendra Mills Labour Association from their wages.

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No. A. F. 4847—Agri/52-49-1, dated Bangalore, 27th December 1949.

In exercise of the powers conferred by Section 3 of the Destructive Insects and Pests Act, 1917 (VI of 1917), the Government of His Highness the Maharaja are pleased to declare the areas specified hereunder to be places infected with the plant disease noted against the respective areas in respect of paddy crop for a period of three years, namely,—

| | *Place* | *Plant disease* |
|---|---|---|
| 1. | Districts of Shimoga, Hassan, Chickmagalur and Chitaldrug. | "Grasshopper Pest" |
| 2. | Districts of Shimoga, Chickmagalur and Hassan. | "Leptispa" |

---

No. A. F. 5051—Mart. 16-49-2, dated Bangalore, the 29th December 1949.

In exercise of the powers conferred by Section 4 of the Mysore Agricultural Produce Markets Act, 1939, (No. XVI of 1939), the Government of His Highness the Maharaja, after consulting the District Board and the Town Municipality, Shimoga, are pleased to declare that with effect from 1st April 1950, the Shimoga Town Municipal limits shall be a 'Market' established under this Act for the purpose of Agricultural produce indicated below. The limits of the Market shall be the Municipal Limits of Shimoga Town.

1. Arecanut.

---

No. A. F. 5055—Mart. 16-49-3, dated Bangalore, 29th December 1949.

Under Section 5 of the Mysore Agricultural Produce Markets Act (No. XVI of 1939), the Government of His Highness the Maharaja are pleased to declare that the Taluk of Shimoga shall be the area, the producers of Agricultural produce in which shall be entitled to be represented on the Market Committee for Mart. constituted in the Notification No. A. F. 5051—Mat. 16-49-2, dated 29th December 1949.

---

No. D. 5098, dated Bangalore, the 29th December 1949.

In exercise of the powers conferred by Section 4 of the Mysore Explosives Act, 1888 (II of 1888), the Government of His Highness the Maharaja are pleased to make the following further amendments to the Mysore Explosives Rules, 1943, the same having been previously published as required by Section 15 of the said Act, namely :—

*Amendments.*

In the said Rules,

Communication of sale and issue of explosives.

(I) After Rule 53, the following Rule shall be inserted namely :—

53A. All sales of explosives to the holder of Licence in Form "I" of the Rules shall be notified to the jurisdictional Station House Officer and the District Superintendent of Police concerned.

(II) In the table annexed to sub-rule (i) of Rule 78, for the word "Inspector" in the last item, the word "Sub-Inspector" shall be substituted.

(III) For condition 6 in the conditions of license occurring in Form I of Schedule IV to the said Rules, the following condition shall be substituted, namely :—

6 (*a*) The licensee shall keep a register of explosives acquired and used in the form annexed and shall exhibit his stock and register to any of the officers authorised under Rule 78 of the Explosives Rules, 1943, whenever such officer may call upon him so to do.

(*b*) He shall also submit fortnightly returns to the jurisdictional Police Officers showing the explosives purchased, spent and balance held by him.

(*c*) The Sectional Police Officers shall carry out monthly inspection of stock on hand and the account maintained by the licensee.

*Record of Explosives acquired and used.*

| Date | Explosives Acquired | | | Explosives used | | | Balance on hand |
|---|---|---|---|---|---|---|---|
| | Name of person from whom received | Address of person from whom received | Amount received | Place where used | Purpose for which used | Amount used | |

A. C. NIRVANI GOWDA, *Genl. Secy.*

No. SD. 5367—C. 73-49-21, dated Bangalore, 21st December 1949.

In exercise of the powers conferred by Rules 75-A, 75-B, and Rule 81 of the Defence of India Rules, as applied to Mysore, and continued by the Supplies, Services and Miscellaneous Provisions (Temporary Powers) Act XX of 1947, the Government of His Highness the Maharaja are pleased to make the following amendment to the Articles of Food Acquisition (Harvest) Order, 1949, issued under Notification No. SD. 4054—C.73-49-4, dated 21st November 1949, and to direct with reference to sub-rule (1) of Rule 119 of the said Rules that notice of the

Order shall be given by the publication of the same in the official Gazette.

2. In Schedule III of the Articles of Food Acquisition (Harvest) Order, 1949, (specifying the purchase prices of foodgrains), the following shall be substituted for the prices fixed for paddy :—

| | | | *Per palla of 100 seers.* Rs. | a. | p. |
|---|---|---|---|---|---|
| Paddy | I Quality | ... | 21 | 0 | 0 |
| Paddy | II Quality | ... | 19 | 0 | 0 |

---

No. M. 9333—P.H. 115-49-2, dated Bangalore, 22nd December 1949.

Under Section 1, Sub-section 2 of the Mysore Prevention of Adulteration Act IX of 1921 as amended from time to time, the Government of His Highness the Maharaja of Mysore are pleased to extend the provisions of the said Act to the Davanagere City Municipality in respect of the undermentioned articles.

| | |
|---|---|
| 1. Milk. | 4. Butter. |
| 2. Ghee. | 5. Tea. |
| 3. Cream. | and 6. Coffee. |

---

No. M. 9841—P.H. 115-49-4, dated Bangalore, 22nd December 1949.

Under Section 20 of the Mysore Prevention of Adulteration Act IX of 1921 as amended from time to time, the Government of His Highness the Maharaja of Mysore propose to make the rules issued with Government Notification No. G. 2463—Sany. 61-30-3, dated 22nd September 1931 as amended in Government Notification No. G. 798—P.H. 136-39-3, dated 29th July 1940 applicable to *Davanagere Municipality*. Any objections to this proposal, if made in writing to the undersigned within a month of this notification, will be duly considered.

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No. C. 1017—Co. 22-49-16, dated Bangalore, the 31st December 1949.

In exercise of the powers conferred by sub-rule (2) of Rule 81 of the Defence of India Rules as applied to Mysore and continued by the Supplies, Services and Miscellaneous Provisions (Temporary Powers) Act, 1947

(Act XX of 1947), the Government of His Highness the Maharaja are pleased to direct that the following amendments shall be made in the Mysore Cotton Control Order, 1949 and to direct with reference to sub-rule (1) of Rule 119 of the said Rules that notice of the said amendments shall be given by publication of the same in the *Mysore Gazette* namely :—

(1) In item (g) of clause 2 after the words "in this behalf" the words "for any specified area" shall be inserted;

(2) In clause 7 (1) after the words "any manufacturer" the words "may buy during a specified period or" shall be inserted;

(3) In clause 9—

(i) the words "other than a manufacturer" shall be deleted.

(ii) the following shall be added :—

"Provided that the said period of 30 days shall be extended according as notified by the Government in the official Gazette".

"Exception—Nothing in this clause shall apply—

(i) to a manufacturer,

(ii) to a person who purchases or stores cotton for his own use and not for the purposes of sale as cotton and who does not at any time have in his possession a quantity of cotton exceeding 24 bales of ginned and pressed cotton or boras of ginned cotton".

(4) In clause 11 in the last sentence after the words and figures "shall be Rs. 25" the following shall be added :—

"Provided that no person shall be liable to pay more than Rs. 25 for the grant or renewal of any number of licenses within the State and the amount paid by him in excess of Rs. 25 shall be refunded to him by the Government on application."

A. S. KHALEEL,
*Public Health, Food and Civil Supplies Secy.*

No. 4572—Ext. 57-49-2, dated Bangalore, 22nd December 1949.

In exercise of the powers conferred by the last item of the Schedule to the Mysore Extradition Act, 1938 (VI of 1938), the Government of His Highness the Maharaja are pleased to direct that the following offences shall be extradition offences within the meaning of the Mysore Extradition Act 1938, for the provinces in the Indian Dominion, namely :—

All offences under the Influx from Pakistan (Control) Act, 1949 (XXIII of 1949).

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No. Fl. 4856—S.T. 9-49-1, dated Bangalore, the 30th December 1949.

The draft of the following amendment to the Mysore Sales Tax Rules, 1948, which the Government of His Highness the Maharaja propose to make in exercise of the powers conferred by Section 25 of the said Act is hereby published for the information of all persons likely to be affected thereby as required by sub-section (4) of Section 25 of the said Act. Notice is hereby given that the said draft will be taken into consideration after four weeks from the date of publication of this Notification in the Gazette. Objections or suggestions if any received in respect of the draft before the said date will be considered by the Government.

**Draft Amendment.**

In Rule 25 of the said Rules, for the words "three months" the words "five months" shall be substituted.

B. S. PUTTASWAMY,
*Secretary to Government,*
*Law Department.*

No. D. 5665, dated Bangalore, 3rd January 1950.

Erratum to Notification No. D. 4883—I. & C. 165-49-1, dated 21st December 1949 and published in the issue of the *Mysore Gazette*, dated 22nd December 1949 in Part IV-2B.

For 1947, occurring in Para 1 thereof, read 1917.

B. T. KEMPANNA, *Dev. Secy.*

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## PART IV

### Section 2-B

### NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS.

## NOTIFICATIONS.

(HOME DEPARTMENT).

No. H. 9827—Pol 226-49-2, dated Bangalore, 4th January 1950.

In exercise of the powers conferred by Sub-section 1 of Section 7 of the Cinematograph Act, 1923 (as amended by Act V of 1935), the Government of His Highness the Maharaja are pleased to make the following alterations in the composition of the Cinematograph Board constituted in Notification No. P. 604—Pol. 231-47-5, dated 14th July 1948 as the authority for the whole State for the purpose of examining and certifying films and pictorial representations as suitable for public exhibition and publication:

(1) The Deputy Inspector-General of Police, Special Branch and C. I. D., Bangalore, is appointed in place of the Senior Deputy Inspector-General of Police.

(2) The Mayor, Municipal Corporation, Bangalore, is appointed in lieu of the President, City Municipal Council, Bangalore City.

K. SRINIVASAN, *Chief Secy.*

No L. B. 6842—L.B. 52-49-2, dated Bangalore, 4th January 1950.

In exercise of the powers vested in them under Section 24 of the Mysore District Board Act, 1926, and in view of the fact that a Committee has been constituted to make recommendations in the matter of re-organising Rural Local Self-Government Institutions and pending decision thereon, the Government of His Highness the Maharaja of Mysore are pleased to extend the term of the present District Boards by one more year from 1st June 1950.

SYED ABDUL ALEEM, *Rev. Secy.*

No. L. 6613—C.M. 57-49-2, dated Bangalore, 6th January 1950.

In exercise of the powers conferred by Sub-Section (1) of Section 68 of the City of Bangalore, Municipal Corporation Act, 1949, (LXIX of 1949), the Government of His Highness the Maharaja are pleased to make the following rules in regard to the preliminary publication, revision and re-publication of the electoral rolls for the 50 divisions referred to in Sub-Section (i) of Section 48 and for the Labour electorates referred to in Section 51 of the said Act :—

**Rules.**

1. The rolls shall be printed separately for each division and electorate in respect of the territorial divisions and labour electorates, respectively, and published by the Commissioner not later than the dates indicated below with two separate notifications under Section 52, one for the territorial divisions and the other for the labour electorates—

| | | |
|---|---|---|
| Territorial divisions | ... | 13th January 1950. |
| Labour electorates | ... | 21st January 1950. |

2. The rolls shall be made available for perusal by the public during office hours for 15 days from the date of publication at the Corporation Offices at Bangalore City and Mayo Hall and published in at least two conspicuous places in each division to be notified by the Commissioner. The Commissioner shall also give notice of such publication in the official Gazette and in two or more local daily newspapers both in English and Kannada. A reasonable number of copies of the rolls shall be kept for sale in the said Corporation Offices.

3. (1) Any person who claims to be entitled to be registered as an elector and who is not entered or is entered in an incorrect place or manner or with incorrect particulars in the preliminary roll and any person whose name is in the roll and who objects to the inclusion of his own name or the name of any other person whose name is in the roll may prefer a claim or objection to the following officers, who shall be designated Revising Authority for purposes of these rules :—

Health Officer.
Engineer.
Revenue Officer, Civil Station Area.
Revenue Officer, City Area.
Personal Assistant to the Commissioner.

(The Commissioner shall specify the divisions and electorates in respect of which each Revising Authority may entertain claims and objections).

(2) All such claims and objections shall be made in writing and not later than three o'clock in the afternoon of the 30th January 1950 in respect of territorial divisions and 6th February 1950 in respect of labour electorates and no claim or objection received after that time shall be entertained by the Revising the Authority.

(3) A claim or objection shall be accompanied by any documents on which the claimant or objector relies.

4. Every Revising Authority shall maintain a register of all claims and objections preferred to him.

5. (1) The Revising Authority shall hold a summary enquiry into the claims or objections preferred and shall record his decision in writing.

(2) For the purposes of the Revising Authority's enquiry the preliminary roll as published shall be presumed to be correct and complete until the contrary is proved.

(3) No party shall be represented by any legal practitioner at any proceeding under the provisions of this rule.

6. (1) The Revising Authority shall report to the Commissioner his decisions on all claims and objections disposed of by him, and the Commissioner shall amend the roll in accordance with such decisions.

(2) The decision of the Revising Authority shall be final.

7. The Revising Authority may of his own motion direct the inclusion of the name of any person whose qualification entitles him to be registered and order the correction of any clerical error or incomplete entry in the preliminary roll as published, which he is satisfied should be made, and may likewise order to be expunged from the roll any incomplete entry which cannot be so corrected or the name of any person—

(*a*) whose qualification as entered in the roll is insufficient to entitle him to be registered; or

(*b*) who is incapacitated from voting by reason of any disqualification or disability imposed by or under the provisions of these rules; or

(*c*) who is proved to him to be dead; or

(*d*) who has been entered in more than one place on the roll of the same constituency, from such other place or places;

Provided that before passing an order under clause (*a*), (*b*) or (*c*), the Revising Authority shall, if this can conveniently be done, give an opportunity to any person concerned to be heard.

8. The Commissioner, may, of his own motion, at any time prior to the re-publication of the roll exercise any or all of the powers conferred on the Revising Authority by the provisions of Rule 7.

9. (1) The rolls with the amendments, if any, shall be finally published in the manner specified in Rule 2 on the 13th February 1950 in respect of the territorial divisions, and the 20th day of February 1950 in respect of the labour electorates.

(2) Two copies of the roll as finally published shall be certified by the Commissioner and forwarded to Government for being deposited.

(3) Such number of copies of the roll as finally published as the Commissioner deems to be sufficient shall be kept by him for sale.

10. The following papers, namely,—

(*i*) the preliminary electoral rolls published under the provisions of Rule 1;

(*ii*) claims and objections having reference to the preliminary rolls, the registers recording such claims and objections and the orders of the Revising Authority thereon; and

(*iii*) the electoral rolls finally published under the provisions of Rule 9,

shall be preserved in the record room of the Commissioner until the expiry of one year from the date of election.

11. Any member of the public shall have a right to inspect any of the papers specified in the last preceding rule on payment of a fee of Two Rupees and to obtain certified and attested copies thereof on payment of the same fees as are prescribed for copies of revenue records.

12. The electoral roll for a constituency shall come into force from the date of its final publication under the provisions of Rule 9.

---

No. L. 6669—C.M. 57-49-4, dated Bangalore, the 7th January 1950.

In exercise of the powers conferred by clause (*c*) of sub-section (*i*) of Section 5 of the City of Bangalore Municipal Corporation Act, 1949 (LXIX of 1949), the Government of His Highness the Maharaja are pleased to direct that the four seats specially reserved for Trade and Commerce shall be filled up by election by the bodies noted below and in the manner indicated in the Annexure.

| *Names of bodies.* | | *Seats.* |
|---|---|---|
| Mysore Chamber of Commerce | ... | 2 |
| Bangalore Trades Association | ... | 1 |
| Bangalore Commercial Association | ... | 1 |
| Total | ... | 4 |

## ANNEXURE

*Manner of election of Councillors to the Corporation of Bangalore by the members of the Mysore Chamber of Commerce, the members of the Bangalore Trades Association and the Bangalore Commercial Association.*

### PART I

### MANNER OF ELECTION OF COUNCILLORS BY THE MEMBERS OF THE MYSORE CHAMBER OF COMMERCE

1. The election shall be held on such day as the Committee of the Chamber for the time being shall appoint, but not less than seven clear days' notice of the date of election shall be given.

2. The voting shall be by ballot and the ballot box shall be placed from 10 A.M. to 5 P.M. of the appointed day in the room in which the meetings of the Chamber are usually held.

3. The ballot box shall be opened by the Chairman or in his absence the Vice-Chairman and the Secretary on the evening of the

appointed day or as soon thereafter as possible, and the result of the ballot declared forthwith.

4. Each member of the Chamber shall be entitled to vote for as many candidates as there are vacancies to be filled, but no member shall be at liberty to give more than one vote to the same candidate. Any ballot paper on which votes are given for more candidates than there are persons to be elected or on which more than one vote is given to the same person shall be invalid.

5. The candidates who have received the largest number of votes shall be declared duly elected. Where an equality of votes is found to exist between any two or more candidates and the addition of one vote to any one or more of such candidates will entitle him or them to be declared duly elected, the Chairman or in his absence the Vice-Chairman shall decide by drawing lots, to which one or more of such candidates such additional vote shall be deemed to have been given.

6. The names of the candidates declared duly elected shall be forthwith reported by the Chairman or in his absence by the Vice-chairman to the Government for publication in the official Gazette.

7. In the event of a casual vacancy the procedure laid down in rules 1 to 6 shall be followed in electing a member to fill the vacancy.

## PART II.

### MANNER OF ELECTION OF COUNCILLORS BY THE MEMBERS OF THE BANGALORE TRADES ASSOCIATION.

1. The election shall be held at a meeting of the Bangalore Trades Association specially convened for the purpose on such day as the Committee of the said Association shall appoint but not less than seven clear days' notice of the date of the election shall be given.

2. The voting shall be by ballot. Each member of the Bangalore Trades Association and, in the case of a joint-stock company which is a member of the said Association, such person as the company may have notified as its representative under Article 3 of the Articles of Association shall be entitled to vote for one candidate.

3. The candidate who has received the largest number of votes shall be declared duly elected. If an equality of votes is found to exist between any two or more candidates and the addition of one vote to any one or more of such candidates will entitle him or them to be declared duly elected, the Chairman, or in his absence the member present at the meeting, shall decide, by drawing lots, to which one or more of such candidates such additional vote shall be deemed to have been given.

4. The names of the candidates declared duly elected shall be forthwith reported by the Chairman or in his absence by the member presiding at the meeting to the Government for publication in the official Gazette.

5. In the event of a casual vacancy the procedure laid down in rules 1 to 4 shall be followed to fill the vacancy.

## PART III.

### MANNER OF ELECTION OF COUNCILLORS BY THE MEMBERS OF THE BANGALORE COMMERCIAL ASSOCIATION.

1. The election shall be held at a meeting of the Bangalore Commercial Association specially convened for the purpose on such day as the Committee of the said Association shall appoint but not less than seven clear days' notice of the date of the election shall be given.

2. The voting shall be by ballot. Each member of the Bangalore Commercial Association and, in the case of a joint-stock company which is a member of the said Association, such person as the company may have notified as its representative under Article 3 of the Articles of Association shall be entitled to vote for one candidate.

3. The candidate who has received the largest number of votes shall be declared duly elected. If an equality of votes is found to exist between any two or more candidates and the addition of one vote to any one or more of such candidates will entitle him or them to be declared duly elected, the Chairman, or in his absence the member present at the meeting, shall decide, by drawing lots, to which one or more of such candidates such additional vote shall be deemed to have been given.

4. The names of the candidates declared duly elected shall be forthwith reported by the Chairman or in his absence by the member presiding at the meeting to the Government for publication in the official Gazette.

5. In the event of a casual vacancy the procedure laid down in rules 1 to 4 shall be followed to fill the vacancy.

---

No. L. 6671—C.M. 57-49-6, dated Bangalore, 7th January 1950.

In exercise of the powers conferred by clause (*a*) of sub-section (2) of Section 48 of the City of Bangalore Municipal Corporation Act, 1949 (LXIX of 1949), the Government of His Highness the Maharaja are pleased to declare that for the purpose of the election of Councillors to fill the seats specially reserved for members of the Depressed Classes and Women under clause (*a*) of sub-section (1) of Section 5 one seat each shall be reserved in

the following divisions for the Depressed Classes and Women, respectively, namely :—

| *Depressed Classes* | | *Women* | |
|---|---|---|---|
| Division No. 4 | | Division No. 1 | |
| Ramachandrapuram ... | 1 seat | Malleswaram West... | 1 seat |
| Division No. 8 | | Division No. 23 | |
| Kempapur Agrahar ... | 1 seat | Basavangudi East ... | 1 seat |
| Division No. 25 | | Division No. 29 | |
| Town Hall ... | 1 seat | Cubbonpet ... | 1 seat |
| Division No. 50 | | Division No. 13 | |
| Austin Town ... | 1 seat | Sri Kasi Visvesvaraswamy Temple ... | 1 seat |
| Division No. 41 | | Division No. 33 | |
| Bamboo Bazaar ... | 1 seat | Fraser Town ... | 1 seat |
| Division No. 36 | | Division No. 44 | |
| Murphy Town ... | 1 seat | Tasker Town ... | 1 seat |

---

No. A.F. 6400—Mart. 17-49-2, dated Bangalore, 9th January 1950.

In exercise of the powers conferred by Section 4 of the Mysore Agricultural Produce Markets Act, 1939 (No. XVI of 1939), the Government of His Highness the Maharaja of Mysore, after consulting the District Board, Hassan, and the Town Municipal Council, Arsikere Town, are pleased to declare that with effect from 1st April 1950, the Arsikere Town Municipal limits shall be a 'Market' established under the said Act for the agricultural produce noted below. The limits of the market shall be the Municipal limits of Arsikere Town.

1. Cocoanuts
2. Copra
3. Cotton
4. Jaggery
5. Chillies
6. Sesamum Oil seeds.

---

No. A.F. 6405—Mart. 17-49-3, dated Bangalore, 9th January 1950.

Under Section 5 of the Mysore Agricultural Produce Markets Act, (No. XVI of 1939), the Government of His Highness the Maharaja of Mysore are pleased to declare that the undermentioned Taluks and Hoblis, shall be the area producers of agricultural produce in which shall be entitled to be represented on the market committee for

the Market constituted in Notification No. A. F. 6400—Mart. 17-49-2, dated 9th January 1950.

1. *Arsikere Taluk*:—
   All the Hoblis.
2. *Kadur Taluk*—
   (*a*) Chingatagere Hobli.
   (*b*) Devanur Hobli.
3. *Hosadurga Taluk*—
   Belagur Hobli only.
4. *Belur Taluk*—
   (*a*) Madehalli Hobli.
   (*b*) Halebid Hobli.
5. *Chikmagalur Taluk*—
   Belavadi Hobli only.

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No. L. 6732—C.M. 57-49-7, dated Bangalore, 9th January 1950.

In exercise of the powers conferred by sub-section (I) of Section 51 of the City of Bangalore Municipal Corporation Act, 1949, (LXIX of 1949), the Government of His Highness the Maharaja are pleased to constitute the following two electorates consisting of persons employed in industries situated in the City who are members of registered labour associations for the purpose of the election of Councillors to the seats specially reserved for labour under Clause (*b*) of sub-section (1) of Section 5 of the said Act.

*Electorate No.* (1). Two Seats.

1. Sri Rama Silk Mills Labour Association
2. Minerva Mills Labour Association
3. Binny Mills Lalour Association
4. Messrs. B. K. Subbiah & Sons, Labour Association
5. Sri Rama Weaving Shed Labour Association
6. Mysore Mills Labour Association
7. T. R. Mills Labour Association
8. Dhondusa Gold Thread Factory Labour Association
9. Srinivasa Silk Mills Labour Association

*Electorate No.* (2) Two Seats

1. The Bangalore City Hotel Workers Association
2. The Bangalore Press Labour Association
3. The Mysore Vegetable Oil Products, Ltd., Employees' Association.
4. The Mysore Industrial and Testing Laboratory Labour Association.
5. Messrs. K. H. Shama Rao & Sons, Labour Association

6 Government Porcelain Factory Labour Association
7 Cinema Employees' Association
8 Government Central Industrial Workshop Labour Association
9 Government Soap Factory Labour Association
10 The Bangalore Transport Co., Ltd., Labour Association
11 Sakamma Coffee Works Labour Association
12 Mysore Road Transport Workers' Association
13 Steel Construction Co., Labour Association
14 Automobile Employees' Association
15 The Tobacco Manufacturers' Labour Association
16 The I.E.M.E. Workshop Employees' Association

Total ... Four Seats

A. C. NIRVANI GOWDA *Genl. Secy.*

No. D. 7799, dated Bangalore, 6th January 1950.

Addenda and Corrigenda to the Revised Provident Fund Rules approved in Government Order No. D. 7247-54—I. & C. 265-45-7, dated the 9th April 1949.

Read "Rule 11" appearing in Rule 14 of the above Revised Provident Fund Rules as "Rule 12".

B. T. KEMPANNA, *Dev. Secy.*

No. C. 1054—Co. 23-19-23, dated Bangalore, 7th January 1950.

In exercise of the powers conferred by Section 3 and Clause (*a*) of sub-section (1) of Section 4 of the Mysore Drugs (Control) (Emergency) Act, 1949, (Act No LXVIII of 1949), the Government of His Highness the Maharaja are pleased to direct that the following further amendments shall be made in the Notification No. C. 3130—Co., dated the 3rd October 1949, published in Part IV, Section 2-B of the *Mysore Gazette* Extraordinary, dated the 3rd October 1949, namely :—

In respect of the drugs in the said Schedule specified in column 1 hereunder which are manufactured by the Imperial Chemical Industries (India) Ltd., Martin & Harris Ltd., Bombay, Vitamins Limited, London, Lederle Laboratories (India) Ltd., Bombay and Ciba Pharma Ltd., *for* the prices specified in column 2 of the said Schedule

the prices specified in column 2 hereunder *shall be substituted.*—

IMPERIAL CHEMICAL INDUSTRIES (INDIA) LTD.,

| | | Rs. | a. | p. |
|---|---|---|---|---|
| Penicillin Lozenges Containers of 25 | ... | 1 | 5 | 6 |

MARTIN & HARRIS, LTD., BOMAAY.

E.R. SQUIBB & SONS INTERNATIONAL CORPORATION, INCORPORATED NEW YORK, U.S.A.

| | | | | |
|---|---|---|---|---|
| Dihydrostreptomycin Hydrochloride | Vial of 1 gm. | 6 | 0 | 0 |
| " " | Vial of 2 gm. | 11 | 0 | 0 |
| " " | Vial of 5 gm. | 25 | 0 | 0 |
| Folic Acid Tablets 5 mg. | Bottle of 25 ... | 10 | 0 | 0 |
| 10 mg. | Bottle of 25 ... | 17 | 12 | 0 |
| Niacin Tablets 25 mg. | Bottle of 100 ... | 2 | 8 | 0 |
| Crystalline Penicillin Sodium G | 100,000 Units ... | 1 | 6 | 0 |
| | 200,000 Units ... | 2 | 4 | 0 |
| | 500,000 Units ... | 4 | 8 | 0 |
| | 1,000,000 Units ... | 8 | 12 | 0 |
| Penicillin Potassium G Tablets | 100,000 Units Box of 6 ... | 8 | 8 | 0 |
| Penicillin Potassium G Chewing Troches | 5,000 Units Box of 24 ... | 3 | 8 | 0 |
| Dispolators—Penicillin G | Box of 3 ... | 13 | 0 | 0 |
| Sulfadiazine Tablets 7½ gr. | Bottle of 20 ... | 4 | 6 | 0 |
| | Bottle of 100 ... | 16 | 8 | 0 |
| | Bottle of 1,000 ... | 155 | 0 | 0 |
| Sulfaguanadine Tablets 7½ gr. | Bottle of 20 ... | 2 | 12 | 0 |
| | Bottle of 100 ... | 11 | 0 | 0 |
| | Bottle of 1,000 ... | 88 | 0 | 0 |
| Sulfamerazine Tablets 7½ gr. | Bottle of 100 ... | 16 | 8 | 0 |
| Sulfathiazole Tablets 7½ gr. | Bottle of 20 ... | 2 | 0 | 0 |
| | Bottle of 100 ... | 8 | 5 | 0 |
| | Bottle of 1,000 ... | 73 | 5 | 6 |
| Thiamine Hydrochloride Tablets 5 mg. | Bottle of 50 ... | 2 | 12 | 0 |
| 10 mg. | Bottle of 50 ... | 5 | 0 | 0 |

VITAMINS LIMITED, LONDON.

| | | | | |
|---|---|---|---|---|
| Betavel (Aneurine Hydrochloride B1) | Vials 10 cc × 100 mg/cc ... | 7 | 10 | 9 |

LEDERLE LABORATORIES (INDIA) LTD., BOMBAY.

| | | Rs. | a. | p. |
|---|---|---|---|---|
| Folbesyn Brand of injectable Vitamins with Folvite (c) 1 dose | ... | 7 | 14 | 0 |

CIBA PHARMA LIMITED.

| | Rs. | a. | p. |
|---|---|---|---|
| Cibazol Bottles of— | | | |
| 20 tablets—per bottle | 2 | 0 | 0 |
| 100 tablets—per bottle | 8 | 5 | 0 |
| 250 tablets—per bottle | 18 | 5 | 0 |
| Cibazol— | | | |
| Eye ointment 5 g. | 1 | 13 | 0 |
| Ointment 40 g. | 3 | 8 | 0 |
| Dusting Powder 20 g. | 2 | 11 | 0 |
| Ampoules 5×5 5 c.c. | 5 | 0 | 0 |
| 20×5 5 c.c. | 19 | 3 | 0 |
| Formo-Cibazol 20 tablets | 5 | 13 | 0 |
| 200 tablets | 49 | 11 | 0 |
| Nicotinic Acid Tablets 75's | 4 | 13 | 0 |

No. C. 1068—Co. 23-49-25, dated Bangalore, 7th January 1950.

In exercise of the powers conferred by Section 3 and clause (*a*) of Sub-section (1) of Section 4 of the Mysore Drugs (Control) (Emergency) Act, 1949 (Act. No. LXVIII of 1949), the Government of His Highness the Maharaja of Mysore are pleased to direct that the following further amendments shall be made in their Notification No. C. 3130—Co., dated the 3rd October 1949, published in Part IV, Section 2-B of the Mysore Gazette Extraordinary dated the 3rd October 1949, namely—

At the end of the Schedule, the following shall be added, in columns 1 and 2 respectively, declaring the drugs to which the Act shall also apply and fixing the maximum retail prices which may be charged in respect thereof, namely:—

**MARTIN AND HARRIS, LTD., BOMBAY.**

**E. R. Squibb & Sons International Corporation Incorporated, New York, U. S. A.**

| | | *Retail price.* Rs. | a. | p. |
|---|---|---|---|---|
| Ascorbic Acid Tablets 100 mg. | Bottle of 25 | 4 | 0 | 0 |
| | Bottle of 100 | 12 | 8 | 0 |
| Ascorbicin Ampoules 100 mg. | Box of 5×1 cc. | 5 | 4 | 0 |
| B-Complex Vitamin Capsules | Bottle of 25 | 4 | 14 | 0 |
| | Bottle of 100 | 16 | 12 | 0 |
| B-Complex Liver Extract | Vial of 10 cc. | 10 | 12 | 0 |
| | Box of 5×1 cc. | 12 | 2 | 0 |
| Ferrous Sulphate with B Vitamins Tablets | Bottle of 100 | 4 | 14 | 0 |
| Folic Acid Tablets 10 mg. | Bottle of 10 | 9 | 12 | 0 |

| | Retial Price. Rs. | a. | p. |
|---|---|---|---|
| Niacin Tablets 50 mg. Bottle of 100 ... | 3 | 8 | 0 |
| Niacinamide Tablets 50 mg. Bottle of 100 ... | 4 | 0 | 0 |
| Niacinamide Solution 100 mg. per cc. Vial of 5 cc. | 3 | 8 | 0 |
| Penicillin G Potassium Tablets 50,000 units Box of 12 | 8 | 8 | 0 |
| 100,000 units box of 12. | 16 | 0 | 0 |
| Crysticillin Fortified 400,000 units per cc. Vial of 1 cc. | 8 | 4 | 0 |
| Procaine Penicillin in Oil 300,000 units per cc. Vial of 10 cc. | 35 | 0 | 0 |
| Rubramin (Vitamin B12) Concentrate Box of 5×1 cc. | 24 | 4 | 0 |
| Rutorbin Tablets 20/100 mg. Bottle of 25 ... | 9 | 12 | 0 |
| Sulfadiazine Sodium Powder Sterile Vial of 5 gm. | 5 | 12 | 0 |
| Sulfanilamide Tablets 7½ gr. Bottle of 25 ... | 1 | 0 | 0 |
| Thiamine Hydrochlor Tablets 10 mg. Bottle of 100 | 9 | 4 | 0 |
| Thiamine Hydrochlor Tablets 50 mg. Bottle of 100 | 34 | 8 | 0 |
| Thiamine Hydrochlor Tablets 100 mg. Bottle of 100 | 63 | 12 | 0 |
| Thiamine Solution 100 mg. per cc. Vial of 10 cc. ... | 7 | 8 | 0 |
| Yeast Tablets 6·8 gr. Bottle of 100 ... | 2 | 12 | 0 |
| Bottle of 1,000 ... | 14 | 8 | 0 |

**THE UPJOHN COMPANY, U. S. A.**

| | | | |
|---|---|---|---|
| Berubigen Vitamin B12 10 cc. per Vial ... | 16 | 0 | 0 |

**VOLKART BROTHERS LIMITED, BOMBAY.**

'ROCHE' SPECIALITIES.

*Beneroa Vitamin B1, aneurine, thiamine—*

| | | | |
|---|---|---|---|
| Ampoules 5 mg. boxes of 6 ... ... | 4 | 10 | 0 |
| boxes of 50 ... ... | 31 | 8 | 0 |
| Ampoules 25 mg. boxes of 3 ... ... | 5 | 4 | 0 |
| boxes of 25 ... ... | 33 | 0 | 0 |
| boxes of 50 ... ... | 65 | 6 | 0 |
| Injection solution 100 mg. per cc. bottles of 5·3 cc. | 5 | 14 | 0 |

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No. C. 1085—Co. 23-49-27, dated Bangalore, 9th January 1950.

In exercise of the powers conferred by Section 3 and Clause (a) of Sub-section (1) of Section 4 of the Mysore Drugs (Control) (Emergency) Act, 1949 (Act No. LXVIII of 1949), the Government of His Highness the Maharaja of Mysore are pleased to direct that the following further amendments shall be made in their Notification No. C. 3130—Co., dated the 3rd October 1949, published in Part IV, Section 2-B of the Mysore Gazette Extraordinary

dated the 3rd October 1949 (and in modification of Notification No. C. 1.—Co. 23-49-8, dated the 24th October 1949), namely.—

In respect of the drugs in the said schedule specified in column 1 hereunder which are manufactured by the Upjohn Company, U.S.A. for the prices specified in column 2 of the said schedule, the prices specified in column 2 hereunder shall be substituted.

**The Upjohn Company, U. S. A.**

| | | Rs. | a. | p. |
|---|---|---|---|---|
| Streptomycin sulfate—1 gram Vial | .... | 7 | 0 | 0 |
| Dihydrostreptomycin—1 gram Vial | .... | 7 | 0 | 0 |

A. S. KHALEEL,
*Public Health, Food and Civil Supplies Secy.*

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# The Mysore Gazette

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Vol. 85] BANGALORE, THURSDAY, JAN. 19, 1950 [No. 3

## PART IV

### Section 2-B

### NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS.

### NOTIFICATIONS.

No T. 5089—R.T. 84-49-2, dated Bangalore, 9th January 1950.

In exercise of the powers conferred under Section 83 of Mysore Motor Vehicles and Road Traffic Act, 1944, the Government of His Highness the Maharaja of Mysore, are pleased to exempt from payment of taxes on Bus No. C.G.A. 727 of Messrs. Adi Cauvery Motor Service Ltd., Mercara, which was engaged for carrying the students and party to Krishnaraja Sagar on the 29th November 1949 for exhibition of the Coorg Folk-dance before the delegates to the "UNESCO" Seminar.

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No. L. 6983—Ml. 104-49-2, dated Bangalore, the 12th January 1950.

Under Section 1 (3) of the Mysore Amusements Tax Act, VIII of 1932, as amended from time to time and the Rules framed thereunder, Government are pleased to direct that the provisions of the said Act be extended to the Chamarajanagar Town Municipality with effect from 1st February 1950.

A. C. NIRVANI GOWDA, *Genl. Secy.*

No. D. 8177, dated Bangalore, the 12th January 1950.

In exercise of the powers conferred by Section 6 of the Provident Funds Act, 1916, (IX of 1916), the Government of His Highness the Maharaja are pleased to extend the provisions of the said Act to the Provident Fund established for the benefit of its employees by Messrs. AMCO Ltd., which is a Company incorporated outside Mysore and has satisfied the requirements of Section 277 of the Mysore Companies Act, 1938.

B. T. KEMPANNA, *Dev. Secy.*

No. Fl. 5242—S.T. 9-49-2, dated Bangalore, 13th January 1950.

The following draft amendments to the Mysore Sales-Tax Rules, 1948, which the Government of His Highness the Maharaja propose to make in exercise of the powers conferred by section 25 of the Mysore Sales-Tax Act, 1948, are hereby published for the information of all persons likely to be affected thereby, as required by sub-section (4) of section 25 of the said Act.

Notice is hereby given that the draft will be taken into consideration after four weeks from the date of publication of this notification in the official Gazette.

Objections or suggestions, if any, to the said draft may be forwarded to the Legal Remembrancer and Secretary to Government, Law Department, Public Offices, Bangalore, for consideration so as to reach him within the aforesaid period.

**Draft Amendment.**

In the Mysore Sales-Tax Rules, 1948,—

(1) To rule 13, the following proviso shall be added, namely :—

"Provided that in respect of the year 1949-50 commencing on the 1st day of July 1949 and ending with the 31st day of March 1950, a dealer's liability to pay any tax for that year shall be fixed *pro rata* on the average of the turnover for a full year of twelve months based on the turnover for final assessment for the year 1948-49 and the tax payable being recovered in quarterly instalments."

(2) To rule 14, the following proviso shall be added, namely :—

"Provided that in respect of the year 1949-50 commencing on the 1st day of July 1949 and ending with the 31st day of March 1950, a dealer's liability to any tax for that year shall be fixed *pro rate* on the average of the turnover for a full year of twelve months based on the turnover for final assessment for the year 1948-49, the tax payable being recovered in quarterly instalments."

(3) To rule 16, the following provisos shall be added, namely :—

"(i) Provided that in respect of the year 1949-50 commencing on the 1st day of July 1949 and ending with the 31st day of March 1950 if the notice aforesaid has been issued to the dealer before the date of final publication of these rules, it shall be deemed to have been lawfully issued and the tax payable for the first three quarters shall be deemed to have been lawfully fixed in respect of the year 1949-50.

(ii) Provided further that, if no such notice is issued to the dealer before the date of final publication of these rules, the assessing authority shall issue a notice to him in Form VIII-2 for the three quarters of the year".

(4) After Clause C (a) of sub-rule (4), rule 17, the following proviso shall be inserted, namely :—

"Provided that in respect of the year 1949-50 the assessing authority shall make provisional assessment for the three quarters of the year. Provided also that the dealer's liability to pay any tax for that year shall be fixed on the average of the turnover for a full year based on the turnover for final assessment for the year 1948-49".

(5) In rule 17 (4), after the first sentence the following provisos shall be inserted, namely :—

"(i) Provided that in respect of the year 1949-50 commencing on the 1st day of July 1949 and ending with the 31st day of March 1950 if the

notice aforesaid has been issued to the dealer before the date of final publication of these rules, it shall be deemed to have been lawfully issued and the tax payable for the First three quarters shall be deemed to have been lawfully fixed in respect of the year 1949-50.

(ii) Provided further that if no such notice is issued to the dealer before the date of final publication of these rules, the assessing authority shall issue a notice to him in Form VIII-2 for the three quarters of the year.

(iii) Provided also that in respect of the year beginning on the first day of April 1950, he shall continue to pay tax as in the last quarter of the preceding year".

B. S. PUTTASWAMY,
*Legal Remembrancer and*
*Secretary to Government,*
*Law Department.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

Reg. No. M.—1175

PALACE OFFICE RECEIVED

# The Mysore Gazette

## (EXTRAORDINARY)

PUBLISHED BY AUTHORITY

MYSORE, WEDNESDAY, JANUARY 25, 1950

### LEGISLATIVE DEPARTMENT

### NOTIFICATION

No. L. D. 1012, dated (Camp) Mysore, 25th January, 1950

In pursuance of the provisions of sub-section (6) of section 15 of the Government of Mysore Act, 1940, (XVIII of 1940), His Highness the Maharaja has been graciously pleased to approve the two resolutions passed by the Legislative Assembly of Mysore on the 13th day of January, 1950, recommending that the Speaker of the Legislative Assembly be paid,

(*a*) a pay of Rs. 800 per mensem;

(*b*) a conveyance allowance of Rs. 150 per mensem;

(*c*) a house rent allowance of Rs. 200 per mensem or be provided with a free furnished residence; and

(*d*) a Government car be provided for his use;

and that the Deputy Speaker of the Legislative Assembly be paid a salary of Rs. 250 per mensem.

By Order,

B. S. PUTTASWAMY,

*Legal Remembrancer and*

*Secretary to Government, Law Department.*

# NOTIFICATION

No. L.D. 1015, dated (Camp) Mysore, 25th January, 1950.

In pursuance of sub-section (2) of section 15 of the Government of Mysore Act, 1940, (XVIII of 1940), His Highness the Maharaja has been graciously pleased to approve the election on the 13th day of January, 1950, of Sri L. H. Thimma Boyi as the Deputy Speaker of the Legislative Assembly of Mysore.

By Order,

B. S. PUTTASWAMY,

*Legal Remembrancer and*

*Secretary to Government, Law Department.*

PRINTED BY THE SR. ASST. DIRECTOR AT GOVT. BRANCH PRESS, MYSORE.

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# The Mysore Gazette

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## PART IV

### Section 2-B

### NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS.

### NOTIFICATIONS.

### HOME DEPARTMENT.

No. 10839—Pol. 282-49-3, dated Bangalore, the 20th January 1950.

In exercise of the powers conferred by Section 8 of the Mysore Cinematograph Act, 1923, (Act XII of 1923), as amended by Act V of 1935, the Government of His Highness the Maharaja are pleased to make the following amendment to sub-rule 1 of Rule 65 of the Mysore Cinematograph Rules, 1946.

Substitute the words "one month" for the words "seven days" and "three months, provided it satisfies all the conditions laid down under the rules in force in this behalf" for the words "one month" occurring in the said rule.

The amended rule reads as follows :—

65 (1) No license shall be granted to any travelling Cinematograph in any place where there is a permanent cinema theatre for a period exceeding one month; but if such permanent cinema theatre is not working in an

efficient condition the licensing authority may grant a license to any Travelling Cinematograph for a period not exceeding three months, provided it satisfies all the conditions laid down under the rules in force in this behalf.

K. SRINIVASAN,
*Chief Secretary.*

No. T. 5444—R. T. 162-48-5, dated Bangalore, the 19th January 1950.

In exercise of the powers conferred by Section 53 of the Mysore Motor Vehicles and Road Traffic Act, 1944 (XXVII), the Government of His Highness the Maharaja of Mysore are pleased to further amend the Mysore Motor Vehicles and Road Traffic Rules, 1945, as follows, the draft of which having already been published in Part IV, Section 2 (b) of the *Mysore Gazette*, dated the 24th November 1949 :—

**AMENDMENT.**

To Rule 199 of the Mysore Motor Vehicles and Road Traffic Rules, 1945, the following proviso shall be added at the end, namely :—

"Provided that in the case of the conductors or drivers of public service vehicles of the Mysore Government Road Transport Department, the property so traced shall be delivered to the "Lost Property Office" of the said Department, if not sooner claimed by the owner."

A. C. NIRVANI GOWDA,
*Secretary to Government,*
*General Department.*

No. L.D. 994—L.A. 17-49-2, dated Bangalore, the 21st January 1950.

His Highness the Maharaja has been pleased to approve the election of Sri V. Venkatappa, Member, Legislative Assembly, as Speaker of the said Assembly.

B. S. PUTTASWAMY,
*Legal Remembrancer and Secretary to Government, Law Department.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

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# The Mysore Gazette

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## PART IV

### Section I-C

**NOTIFICATIONS, RULES, ORDERS ETC., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.**

## NOTIFICATION.

### HOME DEPARTMENT.

No. H. 11811—Pol. 263-49-7, dated Bangalore, 4th February 1950.

The following Presidential Order published in the Gazette of India Extraordinary, dated 26th January 1950,

regarding the Preventive Detention (Extension of Duration) Order, 1950, is republished for general information:—

"No. C. O. 8.

**The Preventive Detention (Extension of Duration) Order, 1950.**

In exercise of the powers conferred by sub-clauses (*a*) and (*b*) of clause (7) of Article 22 of the Constitution of India read with Article 373 thereof and of all other powers enabling him in that behalf, the President is pleased to make the following order, namely :—

1. (1) This order may be called the Preventive Detention (Extension of Duration) Order, 1950.

(2) It shall come into force at once.

2. Where in any class of cases or under any circumstances specified in any law providing for preventive detention in force at the commencement of the Constitution of India (hereinafter referred to as 'the Constitution') any person was immediately before such commencement or is at any time thereafter, in detention in pursuance of an order made under such law, such person may be detained for a period longer than three months under such law without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (*a*) of clause (4) of Article 22 of the Constitution.

3. The maximum period for which any such person, as is referred to in paragraph 2, may be detained, shall, in the case of a person in detention immediately before the commencement of the Constitution, be three months from such commencement, and in the case of a person detained

in pursuance of an order made after such commencement, be three months from the date of such order.

RAJENDRA PRASAD,
26-1-1950.
*President.*

K. V. K. SUNDARAM,
*Secretary.*"

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Republished by Order of His Highness the Maharaja of Mysore.

K. SRINIVASAN,
*Chief Secretary to Government.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

# PART IV

## Section 2-B

## NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS.

### NOTIFICATIONS.

No. S.R. 3502-3—Ex. 85-49-4, dated Bangalore, 4th February 1950.

In exercise of the powers conferred by clause (*d*) of section 28 of the Mysore Prohibition Act, 1948 (XXXVII of 1948), the Government of Mysore are pleased to appoint the Excise Assistant Inspectors attached to the Excise and Prohibition Intelligence Bureau in Mysore as Prohibition Assistant Inspectors and to direct that they shall exercise all the powers and perform all the duties of a Prohibition Officer :

Provided that a Prohibition Assistant Inspector shall not be competent to exercise any powers or perform any duty which only the Commissioner or a Deputy Commissioner can exercise or perform under the said Act.

---

No. S. R. 3504-5—Ex. 85-49-3, dated 4th February 1950.

In exercise of the powers conferred by clauses (d) and (f) of Section 28 of the Mysore Prohibition Act, 1948, (Act XXXVII of 1948), the Government of Mysore are pleased to appoint the Excise Inspector, Excise and Prohibition Intelligence Bureau in Mysore, to be Assistant Prohibition Officer, in the areas in which the said Act is in force and to exercise all the powers and to perform all the duties of a Prohibition Officer under the Act except those under Section 31.

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No. S.R. 3506-7—Ex. 85-49-5, dated Bangalore, 4th February 1950.

In exercise of the powers conferred by clause (*d*) of section 28 of the Mysore Prohibition Act, 1948 (XXXVII

of 1948), the Government of Mysore are pleased to appoint the Peons of the Excise and Prohibition Intelligence Bureau in Mysore as Prohibition Guards to exercise the powers and perform the duties of a Prohibition Officer under sections 35 and 36 of the said Act. The said Prohibition Guards shall also be deemed to be Prohibition Officers for purposes of sections 38, 39, 40 and 59 of the said Act.

SYED ABDUL ALEEM,
*Secretary to Government,*
*Revenue Department.*

No. S.D. 6348—C. 78-49-49, dated Bangalore, 30th January 1950.

In exercise of the powers conferred by Rules 75A, 75B and 81 of the Defence of India Rules as applied to Mysore and continued by the Supplies, Services and Miscellaneous Provisions (Temporary Powers) Act, 1947 (XX of 1947) and of all other powers enabling them in this behalf, the Government of Mysore are pleased to direct that the following clause shall be substituted for clause 4 (ii) of the Articles of Food Acquisition (Harvest) Order, 1949, issued under Notification No. S.D. 4054—C. 78-49-4, dated the 21st November 1949:—

"(ii) Subject to the provisions of this order and save in accordance with rules made by Government by notification in the *Mysore Gazette*, or with the permission of the Government, no person shall purchase, acquire, receive or come into possession in any manner whatsoever of any foodgrains:

Provided that this sub-clause shall not apply to the purchase, acquisition or receipt of foodgrains from the Government or to the purchase from any person or authority duly authorised by Government to sell such foodgrains."

Government further direct with reference to sub-rule (1) of Rule 119 of the said Rules that notice of this amendment shall be given by the publication of the same in the official Gazette.

No. S.D. 6359—C. 73-495-0, Bangalore, dated 30th January 1950.

I. Under the provisions of Clause 4 (ii) of the Articles of Food Acquisition (Harvest) Order, 1949, issued under Notification No. SD. 4054—C. 73-49-4, dated 21st November 1949 and as amended by Notification No. S.D. 6348—C. 73-49-49, dated 30th January 1950, the Government of Mysore are pleased to make the following rules for regulating gifts of foodgrains by individuals to Mutts, Temples and other Religious or Charitable Institutions or bodies :—

(1) The Director of Food Supplies in Mysore may dispose of deserving cases of gifts of foodgrains by growers, to Mutts or Temples or other religious or charitable institutions after ascertaining the requirements of the recipients and subject to the other conditions laid down in these rules, when the quantities involved are not in excess of twenty-five pallas; all other cases being referred for orders of the Government.

(2) The actual requirements of the mutt, temple or other institution may be assessed by the local officers on the basis of consumption by such institution for the last five years, the consumption in the case of others being assessed on the prevailing scale of rations and actual number of persons for whose benefit the gift is intended.

(3) The issue of permits should be based on certificates issued by the local officers of the areas in which the temples, mutts or other institutions are situated, as to the *bonafides* or otherwise, of the requirements asked for.

(4) Foodgrains may be given by any person to a temple, mutt or other charitable institution from the quantity allowed to such person for his use and not from the surplus to be delivered to Government which shall be so delivered to the Government.

(5) The total quantity that can be collected for a temple, mutt or other institution should not be in excess of what is actually necessary to meet the deficit arising after taking into account the quantity of foodgrains received from the land owned or held by such temple, mutt or other institution.

(6) The prescribed transport permits will be issued by the authorities competent to issue such permits in accordance with clause 17 (i) of the Articles of Food

Acquisition (Harvest) Order, 1949, read with Circular No. 3271-44, dated 25th November 1944 of the Director of Food Supplies in Mysore.

(7) The applicant for the permit should be a duly authorised agent of the temple, mutt or other institution and should specify the names and other particulars of the villages in which the lands are situate and the names and addresses of the disciples or sympathisers from whom the foodgrains will be collected, together with the certificate of the Revenue Inspector to the effect that the donors have surrendered their surplus to Government in accordance with the provisions of the Articles of Food Acquisition (Harvest) Order, 1949, and that the quantity of foodgrains they wish to give to the temple, mutt or other institution is only out of the quantity allowed for the use of the disciples or sympathisers concerned.

(8) Care should be taken by the local officers to ensure that foodgrains obtained under these rules are not hoarded or used for purposes other than those for which they were obtained.

(9) The requirements of the temple, mutt or other institution should be estimated strictly in accordance with the rules regulating the quantity of foodgrains allowed for every individual.

(10) If the foodgrains have been collected for any particular function, after such function, or if the foodgrains have been received to meet the normal requirements of the year of the temple, mutt or other institution, at the end of the year for which the foodgrains were intended, a certificate should be recorded on the permit by the Amildar, stating that the collections and utilisation were according to the above rules and the permit sent to the Deputy Commissioner concerned or the Director of Food Supplies who issued the permit for being lodged in his office.

II. Government further direct with reference to sub-rule (1) of Rule 119 of the Defence of India Rules as applied to Mysore and continued by the Supplies, Services and Miscellaneous Provisions (Temporary Powers) Act, 1947, (XX of 1947) that notice of these rules shall be given by publication of the same in the *Mysore Gazette* and by the issue of a Press Note summarising and explaining its provisions.

No. SD. 6387—C. 73-49-52, dated Bangalore, 31st January 1950.

In exercise of the powers conferred by Rules 75-A, 75-B and Rule 81 of the Defence of India Rules as applied to Mysore and continued by the Supplies, Services and Miscellaneous Provisions (Temporary Powers) Act XX of 1947, the Government of Mysore are pleased to make the following amendment to the Articles of Food Acquisition (Harvest) Order, 1949, issued under Notification No. S.D. 4054—C. 73-49-4, dated 21st November 1949, and to direct with reference to sub-rule (1) of Rule 119 of the said Rules that notice of the amendment shall be given by the publication of the same in the official Gazette and by the issue of a press note summarising and explaining its provisions.

2. The following shall be inserted in Schedule I of the Order (Articles of Foodgrains) after "7. Navane":—

8. Save.
9. Sajje.

3. The following shall be inserted in Schedule III of the Order (Purchase prices of foodgrains), after "Jola", in the first and the second columns respectively :—

| | |
|---|---|
| "Save" | Rs. 18. |
| "Sajje" | Rs. 18. |

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No C. 1191—Co. 24-49-7, dated Bangalore, 1st February 1950.

In exercise of the powers conferred by sub-rule 2 of Rule 81 of the Defence of India Rules, as applied to Mysore and continued by the Supplies, Services and Miscellaneous Provisions (Temporary Powers) Act, 1947 (Act XX of 1947), the Government of Mysore are pleased to direct that the following amendments shall be made to the Mysore Cotton Textiles (Export Control) Order, 1949 and to direct with reference to sub-rule (1) of Rule 119 of the said Rules that notice of the amendments shall be given by the publication of the same in the official Gazette.

In the said Order—

(1) (*a*) In sub-clause (*a*) of clause 2, for the words "Outside Mysore State" the words "Outside Indian Dominion" shall be substituted.

(*b*) In sub-clause (*d*) of clause 2, for the words "Outside the State" the words "Outside India" shall be substituted.

(2) (*a*) In sub-clause (1) of clause 8, for the word "Mysore" the words "Indian Dominion" shall be substituted.

(*b*) In sub-clause (iii) of clause 8, for the words "Selling agent outside Mysore" the words "Selling agent outside India" shall be substituted.

(3) In the first proviso under sub-clause (iv) (*b*) of clause 8, for the words "Selling agent outside Mysore" the words "Selling agent outside India" shall be substituted.

A. S. KHALEEL,
*Secretary to Government,*
*Public Health, Food and Civil Supplies Departments.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

# GOVERNMENT OF MYSORE.

## NOTIFICATION.

No. L. 8090—C M. 57-49-9, dated the 28th January 1950.

In exercise of the powers conferred by sub-section (1) of Section 68 of the City of Bangalore Municipal Corporation Act, 1949, (LXIX of 1949), the Government of Mysore are pleased to make the following rules regulating the procedure with regard to the election of the Divisional Councillors of the Corporation of Bangalore and of the Councillors to fill the seats specially reserved for labour.

## RULES.

### Election of Divisional Councillors.

1 (*1*) Not less than one month before the date fixed for an election, the Commissioner, Corporation of Bangalore, shall forward for the approval of the Government a notice thereof stating—

(*a*) the number of persons to be elected ;

(*b*) the divisions for which they are to be elected ;

(*c*) the number of seats in each division for which elections are to be held, and if any seat is reserved, for whom it is reserved ;

(*d*) the dates on which, the places at which and hours between which, nomination papers should be presented, an interval of at least twenty days being allowed between the date fixed for election and the earliest date for presentation of nomination papers ;

(*e*) the person by whom the nomination papers will be received ;

(*f*) the dates on which the nomination papers will be taken up for scrutiny ;

(*g*) the day on which, and the place or places where, the votes of the electors will be taken should there be a poll ; and the hours during which the poll will be open, not being less than ten hours between 7 A.M. and 6 P.M. and

(*h*) the day on which, and the place and hour at which, the Commissioner will commence the counting of the votes.

(*2*) The Commissioner shall cause the notice as approved by the Government to be published in the *Mysore Gazette* and in two or more of the local daily newspapers and copies thereof shall be affixed in not less than three conspicuous places in each division for which the election is to be held.

**Nomination of Candidates.**

**2.** (*1*) The nomination of every candidate shall be made by means of a nomination paper in Form I, which shall, on application, be supplied free of cost by the Commissioner to any elector whose names is on the electoral roll for the division.

(*2*) Every nomination paper shall be signed by two such electors as proposer and seconder and the candidate shall sign a declaration on it expressing his willingness to stand for election.

(*3*) The same elector may sign as many nomination papers as there are vacancies to be filled but no more. Each candidate shall be nominated by a separate nomination paper.

(*4*) Every nomination paper shall be presented by the candidate in person or by his proposer and seconder together on any of the dates at the place and during the hours appointed, to the Commissioner or to such other persons as may be authorised by him in this behalf. The Commissioner or such other authorised person shall forthwith number the nomination papers serially in the order in which they are presented and enter on each nomination paper the time at which it is presented.

(*5*) Where a person has signed whether as proposer or seconder a larger number of nomination papers than there are vacancies to be filled, those of the papers so signed which have been first received upto the number of vacancies to be filled, shall be deemed to be valid.

(*6*) The rejection of a nomination paper of any candidate on the ground of any irregularity in respect

thereof shall not effect the validity of the nomination of the candidate, if the candidate has been duly nominated by means of another nomination in respect of which no irregularity has been committed.

(7) No nomination paper shall be received after the appointed time on the last of the dates appointed for the presentation of nomination papers.

**3.** On the presentation of a nomination paper, the Commissioner or other authorised person referred to in rule 2(*4*) may require the person or persons presenting the same to produce a copy of the electoral roll on which the candidate and his proposer and seconder are registered or of the necessary entries therein and shall satisfy himself that the same and number of candidate and his proposer and seconder as entered in the nomination paper are the same as those entered in the electoral roll. Where necessary, he shall direct that the former be amended so as to be in accordance with the latter.

The Commissioner may interpret any entry in the electoral roll as to overlook merely clerical or printing errors, but he shall record the interpretation adopted by him together with the reasons therefor.

**4**(*1*) At or before the time of presentation of his nomination paper or papers, each candidate wishing to stand for election shall deposit or cause to be deposited with the Commissioner in cash or in Government Promissory notes of equal value at the market rate of the day, a sum of twenty-five rupees, if he is a member of the Scheduled Castes or a sum of one hundred rupees, if he is not a member of such castes and no candidate shall be deemed to be duly nominated for any division in respect of which such deposit has not been made. A separate deposit shall be required in respect of each division for which the candidate wishes to stand.

*Explanation.*—The delivery to the Commissioner of a receipt from the Government Treasury or Bank wherein the Council has an account, evidencing the payment by or on behalf of a candidate to the credit of the Corporation of Bangalore of the amount required to be deposited under this sub-rule shall be deemed to be a deposit of such amount within the meaning of this sub-rule made by or on behalf of such candidate at the time of such delivery.

(2) If no nomination paper is received within the time appointed in that behalf in respect of any person by whom or on whose behalf, the deposit referred to in sub-rule (1) has been made, or if the nomination or any such person is rejected, or if he withdraws his candidature in the manner and within the time specified in rule 8 (1) the deposit shall be returned to the person by whom it was made; and if any candidate dies before the commencement of the poll, any such deposit, if made by him, shall be returned to his legal representatives or if not made by the candidate, shall be returned to the person by whom it was made.

(3) If any candidate by whom or on whose behalf, the deposit referred to in sub-rule (1) has been made withdraws his candidature under rule 8 (2) or if he is not elected and the number of votes polled by him does not exceed one-eighth of the total number of votes polled, divided by the number of members to be elected, the deposit shall be forfeited to the Corporation of Bangalore.

(4) For the purpose of sub-rule (3), the number of votes polled shall be deemed to be the number of ballot papers, other than spoilt ballot papers, counted.

(5) The deposit made in respect of a candidate who is not elected shall, if it is not forfeited under sub-rule (3), be returned to the candidate or to the person who has made the deposit on his behalf as the case may be, as soon as may be, after the publication of the result of the election in the Official Gazette; and the deposit made in respect of a candidate who is elected shall be so returned as soon as may be after the candidate has taken his seat in the Council or in pursuance of a direction by the Government for the return of the deposit despite the fact that the seat has been so taken by the candidate.

(6) Notwithstanding anything contained in sub-rules (2) and (5) where deposits have been made by or on behalf of a candidate in respect of two or more divisions, not more than one of the deposits shall be returned and the remainder shall be forfeited to the Corporation of Bangalore.

(7) A deposit required to be returned to any person under sub-rule (2) or sub-rule (5), shall, if such person is dead, be returned to his legal representative.

(8) Notwithstanding anything contained in this rule, a deposit made under sub-rule (1) shall not be returned, unless a claim therefor is delivered or sent by post to the Commissioner by the person who made the deposit or by his legal representative, as the case may be, within six months of the date of the declaration by the Commissioner of the results of the election or where such declaration is made on two different dates, within six months of the later of such dates.

**5.** The Commissioner or other authorised person referred to in sub-rule (4) of rule 2, shall at least fifteen days before the date fixed for the election, publish in the Municipal Office and in three conspicuous places in the division for which an election is to be held and by an advertisement in two or more of the local daily newspapers, a list in Form II of all nominations received, with a notice that the nomination papers will be taken up by the Commissioner for scrutiny at the Corporation Office or other specified place on the dates appointed under rule 1.

## SCRUTINY OF NOMINATION PAPERS.

**6.** (*1*) The Commissioner shall attend to the Corporation Office on two consecutive working days next after the last day upon which the list of candidates nominated has been published, in order to scrutinise the nomination papers and to hear any objections which may be made to any nomination. Such objections may relate not only to the form of nomination but also to violation and non-observance of all or any of the provisions of the Act or rules thereunder relating to such nomination and may include objections concerning the eligibility of the candidates to stand for elections or of the nominators to nominate. Any elector of the division may file a written statement raising any such objection. The Commissioner may either on such objection or on his own motion, after such summary enquiry, if any, as he thinks necessary, reject any nomination on any of the following grounds :—

(*i*) That the candidate is ineligible for election under the law for the time being in force.

(*ii*) That the proposer or seconder is a person whose name is not registered on the electoral roll.

(*iii*) That there has been any failure on the part of the candidate or his proposer or seconder to comply with the provisions of rule 2 or rule 4.

(*iv*) That in case, the election is solely for a seat reserved for any community or person, the candidate does not belong to that community or is not a woman, as the case may be.

Provided that the nomination of a candidate shall not be rejected merely on the ground of an incorrect description of his name or of the name of his proposer or seconder or of any other particulars relating to the candidate or his proposer or seconder as entered in the electoral roll, if the identity of the candidate, proposer or seconder, as the case may be, is established beyond reasonable doubt.

(*2*) The Commissioner shall endorse on each nomination paper, his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection. The scrutiny shall be completed on or before the last of the days notified in this behalf under rule 1 and no adjournment of the proceedings shall be allowed.

(*3*) The decision of the Commissioner on any such objection as aforesaid shall be final for the purposes of the election, unless within one week of the date on which the decision has been given, a petition for the revision of the decision be filed before the District Judge, Bangalore Division; in such a case, the decision of the said Judge, shall, subject to the provisions of sub-rule (4), be final. In case the objection is allowed, the decision of the Commissioner or the said District Judge or of the High Court as the case may be, shall be communicated to all the candidates affected thereby.

(*4*) An appeal shall lie to the High Court from the decision of the District Judge under sub-rule (3), if the said District Judge certifies that the appeal involves a point of law.

**7.** (*1*) In case a revision petition has been filed under rule 6 and the decision of the said District Judge has for any reason not been given more than three days before the date fixed for the election under rule 1, the Commissioner shall stop further proceedings in regard to the holding of the election and shall report the matter to

the Government, who shall fix, by notification in the Official Gazette, a fresh date for the election in respect of which such nomination was made, and copies of such notification shall be posted in not less than three conspicuous places in the division. The procedure prescribed by rules 2 to 6 shall, whatever be the decision of the Commissioner or the District Judge or the High Court, be repeated for such fresh election, unless the Government shall, by a special order, otherwise direct.

(2) The Government may fix a fresh date for the election not only in the contingency referred to in sub-rule (1) but whenever they deem fit to do so and they may exercise this power not only once but as often as may be necessary.

8. (1) Any candidate may withdraw his candidature by notice in writing signed by him and delivered to the Commissioner at any time after the presentation of his nomination paper or papers and not later than 3 o'clock in the afternoon of the day succeeding the last of the days appointed for the scrutiny of nominations. Unless the notice is delivered by the candidate himself to the Commissioner, the candidate's signature on the notice shall be attested by a person empowered to attest vakalats.

(2) In cases where a poll is found to be necessary, a candidate may also withdraw his candidature by notice in writing signed by the candidate and delivered by him personally to the Commissioner after the latest hour for withdrawal referred to in sub-rule (1) but at least seven clear dates before the date appointed for the poll.

A withdrawal under this sub-rule may be made not later than 5 o'clock in the afternoon of the last day for such withdrawal.

*Explanation.*—Withdrawal under this sub-rule shall entail forfeiture of the deposit made by or on behalf of the candidate.

(3) The Commissioner on receiving a notice of withdrawal under sub-rule (1) or sub-rule (2) shall, as soon as may be, cause a notice of the withdrawal to be published on the notice board of the Corporation Office; and where the withdrawal, to all other candidates of the division who have not withdrawn their candidatures.

(4) A candidate who has withdrawn his candidature under sub-rule (1) or sub-rule (2) shall not be allowed to cancel the withdrawal or to be re-nominated as a candidate for the same election.

**9.** The following provisions shall apply in respect of candidates whose nominations have not been rejected and who have not withdrawn their candidature :—

*Case I.*—Where the election is held for filling up only a general seat or a reserved seat in a division—

(*a*) if there is only one candidate, the Commissioner shall declare such candidate to be duly elected to such general or reserved seat ;

(*b*) if there are two or more candidates, the Commissioner shall arrange for a poll to be taken ; and

(*c*) if there is no candidate, the seat shall be filled up in accordance with the provisions of section 62 of the Act.

*Case II.*—Where the election is held for filling up both the general and reserved seats in a division—

(*a*) if there is only one candidate, and

(*i*) if such candidate is eligible for the reserved seat, the Commissioner shall declare him duly elected to the reserved seat ;

(*ii*) such candidate is not so eligible for the reserved seat the Commissioner shall declare him to be duly elected to the general seat ; and

(*iii*) the other seat shall be filled up in accordance with the provisions of Section 62 of the Act ;

(*b*) if there are only two candidates, and—

(*i*) if both of them are eligible for the reserved seat, the Commissioner shall by drawing lots declare one of them to be duly elected to the reserved seat and the other candidate to the general seat ;

(*ii*) if only one of them is eligible for the reserved seat, the Commissioner shall declare such candidate to be duly elected to the reserved seat and the other candidate to the general seat ; and

(iii) if neither of them is eligible for the reserved seat, the Commissioner shall arrange for a poll to be taken to fill up the general seat; and the reserved seat shall be filled up in accordance with the provisions of section 62 of the Act; and

(c) If there are more than two candidates; and—

(i) if two or more of them are eligible for the reserved seat, the Commissioner shall arrange for a poll to be taken to fill up both the seats;

(ii) if only one of them is eligible for the reserved seat, the Commissioner shall declare such candidate to be duly elected to the reserved seat, and shall arrange for a poll to be taken to fill up the general seat; and

(iii) if no such candidate is eligible for the reserved seat, the Commissioner shall arrange for a poll to be taken to fill up the general seat and the reserved seat shall be filled up in accordance with the provisions of section 62 of the Act.

*Explanation.*—In this rule, "candidate" means a candidate who has been duly nominated and has not withdrawn his candidature in the manner and within the time specified in sub-rule (2) of rule 8.

A candidate shall be deemed to be eligible to a reserved seat if such candidate belongs to the community or is a woman according as the seat is reserved under Section 48 (2) (*a*) of the Act for that community or for woman.

**10.** (*1*) If a poll is found to be necessary, the Commissioner shall assign to each candidate subject to such directions as may be issued by the Government in that behalf, one of the following colours, namely, red, green, blue and yellow, or where the number of candidates exceeds four the colours aforesaid and in addition thereto purple and such other distinctive colours (except black) as the Commissioner may determine.

(*2*) Three days before the date fixed for election under rule 1 or rule 7, the Commissioner shall prepare a list in Form III of persons whose nominations have not

been rejected and who have not withdrawn their candidature and publish it on the notice board of the Corporation Office and in two conspicuous places in the division for which the election is to be held and by advertisement in two or more local daily newspapers.

(3) The list shall contain the names of the candidates in the order of the English alphabet and shall describe them as in their nomination papers and, if a poll is found to be necessary, shall also specify the distinctive colours assigned to them under sub-rule (1).

**11.** If after the scrutiny of nominations has been completed and before the poll is taken, a candidate whose name appears in the list of valid nominations published under rule 10 becomes ineligible for election under clause (f) of sub-section (2) of Section 56 of the Act, the Commissioner shall upon being satisfied as the existence of such ineligibility, reject the nomination of the candidate and the provisions of rule 9 or section 62 of the Act, as the case may be shall apply:

Provided that nothing contained in this rule shall apply, if the candidate has already been declared duly elected under rule 9.

**12.** If after the taking of a poll has become necessary and before the poll is taken, a candidate who has been duly nominated dies, the Commissioner upon being satisfied of the fact of the death of the candidate countermand the poll; and election proceedings shall be started afresh in all respects as if for a new election.

Provided that no fresh nomination shall be necessary in the case of the candidate or candidates, who stood nominated at the time of the countermanding of the poll.

**13.** (1) If a poll has to be taken, the Commissioner shall appoint forthwith one or more polling officers for each polling station and such other persons to assist polling officers as he thinks necessary and may pay them reasonable remuneration for their services. The Commissioner shall provide for each polling officer such number of clerks as may be necessary and may also if necessary, appoint one or more identifying officers to assist the polling officer in identifying the electors. Polling officers shall neither be Councillors for the divisions for which the poll is to be taken nor registered electors therein.

(2) The Polling Officer shall keep order at the polling station shall see that the election is fairly conducted and that votes are recorded with absolute secrecy, shall regulate the number of electors to be admitted at one time, and shall exclude all other persons except—

(a) The candidates, and at each booth, one agent of each candidate at a time (hereinafter referred to as the polling agent) appointed in writing by the candidate and approved by the Commissioner or by the person authorised by the Commissioner in this behalf;

(b) The police or other public servants on duty; and

(c) His own clerks and such persons as the polling officer may from time to time admit for the purpose of identifying electors.

(3) Where a woman elector cannot be identified by the identification officers appointed under sub-rule (1) by reason of her observing "*purdah*" she may be required to be identified by any of her near relatives, unless she otherwise satisfies the polling officer of her identity.

If any question arises as to whether a person is or is not a near relative within the meaning of this sub-rule, it shall be decided by the polling officer and his decision shall be final.

**14.** Each polling station, and at a polling station having more than one polling booth, each such booth shall contain a separate compartment in which electors can record their votes screened from observation except in so far as it may be necessary to ensure that the ballot papers are duly placed in boxes. As far as possible separate compartments and separate entrances and exits shall where action is not taken under rule 15, be provided for women electors.

**15.** Notwithstanding anything hereinbefore contained the Commissioner may, at his discretion if women in sufficient number suitable and willing to act as polling officers are available, provide a separate polling station for taking the votes of the women electors for any polling area or make such other arrangements as may be necessary to ensure the privacy of such electors. In such cases, only women shall be appointed to act as polling

officers in respect of the votes of the women electors concerned. Except the police or other public servants on duty, no candidate, agent of a candidate or other person who is not a woman shall be admitted into or be present at such polling station or the place where the votes of such women electors are taken, as the case may be.

**16.** (*1*) The Commissioner shall provide in each polling compartment at each polling station, as many ballot boxes as there are candidates the box of each candidate bearing the serial number and the distinctive colour or colours assigned to him. He shall also provide a sufficient number of envelopes bearing the distinctive colours assigned to the candidates and such other colours as may be necessary to give effect to clause (ii) of sub-rule (2) of rule 29 together with the necessary outer covers, copies of the electoral roll or such part thereof as contains the names of the electors entitled to vote at the station, and such other papers, stationery and forms as may be necessary. He shall further provide a board on which is displayed in bold and clear print the name of each candidate in English and in such other languages current in the division, as the Commissioner may think fit, the serial number and the colour or colours assigned to him and the number of vacancies for which the election is held.

(*2*) Every ballot box shall be so constructed that ballot papers can be introduced therein but cannot be withdrawn therefrom, without the box being unlocked.

**17.** A notice shall be put up at the entrance to the polling station giving the numbers and names of the candidates as published in Form III. There shall be given against the name of each candidate both a description and a sample of the distinguishing colour directed to be used on the ballot box assigned to the candidate.

**18.** Each polling officer shall be supplied by the Commissioner with a list of electors for the division for which such polling officer is appointed. The ballot papers and ballot boxes shall be delivered to the polling officer by the Commissioner or other person authorised by him, sufficiently early before the hour fixed for the starting of the poll.

**19.** (*1*) The polling officer at any polling station, immediately before the commencement of the poll, shall show each of the ballot boxes empty to such persons as may be present at such station, so that they may see that it is empty, and shall then lock it up, and place his seal upon it. He shall thereupon place the box so locked and sealed, inside the polling compartment for the receipt of ballot papers but screened from observation except in so far as it may be necessary to ensure that the ballot papers are duly placed in it.

The ballot boxes shall be arranged from left to right in the place set apart for the purpose and in the order in which the names are published in Form III.

(*2*) Before the polling station is opened for the recording of votes, the polling officer shall read to such persons as may be present the provisions of section 69 of the City of Bangalore Municipal Corporation Act and shall explain the substance thereof in the language of languages current in the division.

**20.** Ballot papers shall be in Form IV and shall have counterfoils attached to them which shall be in Form IV-A. They shall be serially numbered both in the foil and on the counterfoil. On every ballot paper, such mark as may be directed by the Commissioner shall be stamped across the perforation between the ballot paper and the counterfoil in such a manner that the mark falls partly on the ballot paper and partly on the counterfoil.

Where the poll is taken for two seats, every one of the serial numbers, shall be printed on two consecutive ballot papers, the first of such ballot papers shall bear the number alone and the remaining ballot paper shall bear the number with a capital letter of the English alphabet added after it in order.

*Illustration.*—If there are two seats for which a poll is taken the serial numbering shall be 1 and 1-A; 2 and 2-A; 3 and 3-A; and so on.

**21.** (*1*) At an election for a division in which not more than one seat has to be filled, an elector shall be given only one ballot paper which shall be placed in the ballot box bearing the serial number and the colour assigned to the candidate for whom he desires to vote.

(2) At an election for a division in which two seats have to be filled, the elector shall be given two ballot papers and the polling officer shall explain to the elector—

(i) the number of candidates for whom he may vote;

(ii) that he may place one ballot paper in the ballot box of each of the candidates for whom he wishes to vote;

(iii) that he should not place both the ballot papers in the same ballot box; and

(iv) that where elector wishes to vote for only one candidate and does not wish to exercise his second vote, he shall return the surplus ballot paper to the polling officer.

(3) The surplus ballot paper referred to in clause (iv) of sub-rule (2), together with the corresponding counterfoil, shall be marked as cancelled.

(4) Immediately before any ballot paper or papers are delivered to an elector, the number, name and description of the elector as stated in the electoral roll, shall be called out. He shall then detach the ballot paper or papers from the counterfoil and deliver it to the elector and shall place a mark on a copy of the electoral roll against the number of the elector to denote that he has received the ballot paper or papers but with no indication of the particular ballot paper or papers which he has received.

**22.** The elector on receiving the ballot paper or papers shall forthwith proceed into the polling compartment and there place the ballot paper or papers in the ballot box or boxes, according to his choice. Every elector shall vote without undue delay and shall quit the polling station as soon as he has voted. He shall not place anything except a ballot paper in any box. Anything other than ballot papers found in any box shall be forfeited to the Corporation.

**23.** (1) If the polling officer is satisfied that an elector is incapacitated by blindness from voting in the manner prescribed in rule 22, the polling officer shall

ascertain from the elector for which candidate or candidates he wishes to vote and shall, in the presence of any candidates or polling agents who may be present, place the ballot paper or papers in the box or each of the boxes, bearing the serial number or numbers and the colour or colours, assigned to the candidate or each of the candidates for whom he wishes to vote. Where the elector wishes to vote for only one candidate, and does not wish to exercise his second vote, the surplus ballot paper together with its corresponding counterfoils shall be marked as "cancelled."

(2) In the case of every elector whose ballot paper or papers are dealt with in the manner laid down in sub-rule (1), a note shall be made on the counterfoil by the polling officer, of the reason why the paper or papers were so dealt with.

**24.** Special facilities in accordance with the instructions, if any, issued by the Commissioner in that behalf, may be accorded to women electors.

**25.** When a person presents himself to vote and at any time before a ballot paper is supplied to him, the polling officer may of his own accord and shall, if so required by a candidate or polling agent, put to such person either or both of the following questions:—

(*i*) Are you the person enrolled as follows (reading the whole entry from roll).

(*ii*) Have you already voted at the present election in this polling station or in any other polling station.

And the person shall not be supplied with a ballot paper, unless he gives an unqualified answer to the question or questions, put to him and unless his answer to the first question is in the affirmative and the second in the negative. Except as mentioned herein, and subject to the provisions of Section 54 of the Act, every person whose name is found on the electoral roll shall be entitled to be supplied with a ballot paper.

**26.** If a person representing himself to be a particular elector named on the electoral roll applies for a ballot paper after another peron has voted as such elector, the applicant shall after duly answering such questions as the

polling officer may ask, be entitled to receive a ballot paper or ballot papers in the same manner as any other elector.

The polling officer shall write the word "Tendered" in bold characters on the face of the ballot paper or each of the ballot papers before it is handed over to such person. On receipt of such ballot paper or papers (hereinafter referred to as tendered ballot papers) the elector shall proceed into the polling compartment and there place the ballot paper or each of the ballot papers in an envelope bearing the colour assigned to the candidate or each of the candidates for whom the applicant wishes to vote. He shall then stick the envelope or envelopes and enclose the name in a cover and hand it over to the polling officer. The polling officer shall make an endorsement containing the name of the elector and his number on the electoral roll and the number of the division for which the election is held and shall set aside the cover in a separate packet, the ballot papers in which shall not be counted by the Commissioner. The name of the elector and his number in the electoral roll and the name or distinctive number of the polling station to which the roll relates shall be entered in a list in Form V which shall bear the heading "Tendered votes list." The person tendering such ballot paper or papers shall sign his name and address on that list or affix his thumb-impression thereto.

*Explanation.*—In cases falling under this rule to which rule 27 is also applicable, the provisions of this rule as well as of rule 27 shall be followed.

**27.** (*1*) If any candidate or polling agent declares and undertakes to prove that any person by applying for a ballot paper has committed the offence of personation, the polling officer shall call upon the candidate or agent bringing forward the charge of personation to deposit with him a sum of five rupees in cash. A separate deposit shall be required for proceeding with each charge of personation. If such deposit is not made, the polling officer shall ignore the challenge.

(*2*) Immediately the deposit required by sub-rule (1) has been made, the polling officer shall obtain a written statement in Form VI which shall be signed by the candidate or agent, as the case may be, and attested by

two creditable witnesses, in the presence of the polling officer.

(3) The polling officer shall then require the applicant for the ballot paper to enter in the list of challenged votes (which shall be in Form VII) his name and address or, if he is unable to write, to affix, his thumb—impression thereto and may further require such person to produce evidence of identification.

(4) If the applicant for the ballot paper on being questioned in the manner provided in rule 25 gives unqualified answers to the first question in the affirmative and to the second in the negative, he shall be allowed to vote after he has been informed of the penalty for personation. The polling officer shall make a note of the circumstances and of his decision on the list of chellenged votes.

(5) The polling officer shall, at the close of the poll forward to the Commissioner the statements mentioned in sub-rule (2) enclosed in the packet containing the list of challenged votes.

(6) The Commissioner shall immediately institute such inquiries as may be necessary and shall take steps to prosecute the persons whom he believes to be guilty of the offence of personation after obtaining the previous sanction, required by section 196 of the Code of Criminal Procedure, 1895, such sanction being obtained from the Commissioner of Police. If it is found as a result of the judicial trial that the offence of personation has not been proved, the Commissioner of the Corporation shall decide whether the whole or part of the deposit shall be declared forfeited to the Corporation. In coming to a decision on this point, the Commissioner shall be guided by the facts and conclusions recorded at the trial. If there is no judicial trial, the Commissioner shall, in his discretion, decide whether having regard to the relevant circumstances, the whole or part of the deposit shall be declared forfeited to the Corporation. The deposit or such portion thereof as has not been declared forfeited, shall be returned to the person who made the deposit.

(7) A challenge once made shall not be permitted to be withdrawn except with the forfeiture of the deposit and except after the election under the orders of the Commissioner.

**28.** An elector who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as a ballot paper may, on delivering it to the polling officer and satisfying him of the inadvertence, obtain another ballot paper in place of the spoilt one, the latter one together with its counterfoil being marked as cancelled. Where such an elector has originally received more than one ballot paper he shall not be given fresh ballot paper, unless he delivers to the polling officer all the ballot papers he had originally received which shall, together with their counterfoils, be marked as "cancelled."

**29.** (*1*) A public servant or polling agent who being entitled to vote in the division is duly appointed or authorised for duty at a polling station at which he is not ordinarily entitled to record his vote at the polling station where he is employed. The said certificate shall be in Form VIII.

If a polling officer, public servant or polling agent is on duty at a polling station not relating to the division in which he is entitled to record his vote, the Commissioner shall in addition to the certificate mentioned above, furnish the polling officer concerned with particulars regarding the number of votes which an elector is entitled to give and the names of and serial numbers and colours assigned to the candidate standing for election in that division together with a ballot paper or ballot papers relating to such division and envelope in each of the colours assigned to such candidates.

The Commissioner shall in either case, immediately send a copy of the certificate to the polling officer of the polling station at which the person to whom the certificate is issued is ordinarily entitled to record his vote.

(*2*) A person in possession of a certificate in the form prescribed in sub-rule (1) shall deliver the certificate to the polling officer of the station where he is on duty who shall thereupon issue to the person, ballot papers in the same manner as to any other elector. Such ballot papers shall be dealt with in the following manner:—

(*i*) If the polling station at which the person is on duty relates to the division in which he is entitled to vote, then the provisions contained

in rules 21 and 22 shall apply. The polling officer shall at the end of the poll send the certificate to the Commissioner along with the statement mentioned in rule 32.

(*ii*) If the polling station at which the person is on duty be not in the division in which he is entitled to vote, the polling officer shall issue the ballot paper or if there are two seats, two ballot papers with instructions similar to those contained in sub-rule (2) of Rule 21. The person shall proceed into the polling compartment and place the ballot paper or each of the ballot papers in an envelope bearing the colour assigned to the candidature or each of the candidates for whom he wishes to vote. He shall then stick the envelope or envelopes and enclose the same in a cover and hand over the cover to the polling officer. The polling officer shall make up into separate packets for each division the covers in which votes have been so recorded the connected certificates being fastened to the cover, seal up such packet in the manner specified in rule 31 and forward the same to the Commissioner.

**30.** (*1*) Where the proceedings at any polling station are seriously interrupted or obstructed by any riot or open violence or otherwise or where a large number of electors are unable to attend the poll at the polling station by reason of any act of God such as flood or fire, the polling officer shall stop the poll, pending the receipt of the orders of the Commissioner. The fact that the poll has been so stopped shall be immediately announced by the polling officer to the persons present at the polling station.

(*2*) Where a polling officer stops a poll under sub-rule (1) he shall observe the procedure laid down in rules 31 and 32, and forthwith make a full report of the circumstances to the Commissioner.

(*3*) The Commissioner shall thereupon order :—

(*a*) That the poll be continued at the polling station for the number of hours for which it was not held on the previous occasion, or

(*b*) that the proceedings at the poll held at the polling station on the previous occasion be ignored and that a fresh poll be held at such polling station for the full number of hours for which it should have been held on the previous occasion.

Any order passed by the Commissioner under this sub-rule shall be final.

(*4*) Any order passed under sub-rule (3) shall—

(*a*) state :—

(*i*) the date on which, and the hours between which the continuation poll or the fresh poll, as the case may be shall be held ; and

(*ii*) the date on which and the place and hour at which the Commissioner will commence the counting of the votes under rule 33 : and

(*b*) be published in the manner laid down in sub-rule (2) of rule 1 not less than seven days before the date fixed for the continuation poller for the fresh poll as the case may be.

5. (*a*) Where an order is passed under clause (*a*) of sub-rule (3) for the continuation of the poll, the Commissioner shall proceed afresh under sub-rule (1) of rule 13 and return to the polling officer appointed under that sub-rule, all the packets received by him under sub-rule (2) of this rule.

(*b*) The polling officer shall open the packets just before the commencement of the continuation poll in the presence of such persons as may be present at the polling station and commence such poll precisely at the hour fixed therefor in the order passed by the Commissioner under clause (*a*) of sub-rule (3).

(*c*) At the continuation poll, the polling officer shall allow only such elector to vote as did not vote on the previous occasion.

(*6*) Where an order is passed under clause (*b*) of sub-rule (3) for holding a fresh poll, the Commissioner shall proceed afresh under sub-rule (1) of Rule 13 and fresh poll shall be held at the polling station concerned in accordance with the provisions of these rules in all respects.

as if it were being held at such polling station for the first time.

*Explanation*:—There shall be no fresh nominations in cases under this sub-rule.

(7) Notwithstanding anything contained in this rule, if a candidate dies at any time before the orders are passed by the Commissioner under sub-rule (3) or at any time after the passing of such orders but before the commencement of the continuation poll or of the fresh poll, as the case may be, the Commissioner shall, upon being satisfied of the fact of the death of the candidate, stop all further proceedings in connection with the election, and start election proceedings afresh in all respects as if for a new election by the division concerned:

Provided that no fresh nomination shall be necessary in the case of the remaining candidates who stood nominated at the time when the poll was stopped.

**31.** (1) The Polling Officer shall close the polling station at the hour appointed for closing under Rule 1 or sub-rule (4) of rule 30 as the case may be so as to prevent the admission thereto of any elector after that hour and no ballot paper shall be issued thereafter.

(2) The Polling Officer of each polling station, as soon as practicable after the close of the poll, shall in the presence of any candidate or polling agent who may be present make up into separate packets and seal with his own seal and seals of such candidates or agents as may decide to affix their seals:—

(i) each ballot box in use at such station unopened but with the key (which should also be sealed in the same manner as the ballot box), attached.

(ii) the tendered ballot papers,

(iii) the unused ballot papers,

(iv) the spoilt ballot papers,

(v) the marked copy of the elected roll,

(vi) the counterfoils of the ballot papers,

(vii) the tendered voters lists,

(viii) The list of challenged votes with the statement or statements mentioned in sub-rules (2) and (5) of Rule 27, and

(*ix*) the covers referred to in clause (*ii*) of sub-rule (2) of Rule 29 and shall forward such packets to the Commissioner.

(*3*) Each packet shall be numbered and shall bear a note as to its contents, the name of the polling station and the number of the division. Where no vote has been recorded at any polling station, the Polling Officer shall submit a nil report together with the statement in Form IX referred to in rule 32.

**32.** The Packets shall be accompanied by a statement, in a separate cover, in Form IX made by the Polling Officer, showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers in the ballot boxes, unused, spoilt and tendered ballot papers.

**33.** (*1*) The counting of votes shall commence on the day and at the place and hour appointed in that behalf. Votes shall be counted by or under the supervision of the Commissioner, and each candidate, the election agent of each candidate, and on representative of each candidate authorised in writing by the candidate shall have a right to be present at the time of counting. No other person shall be allowed to be present except such persons as the Commissioner may appoint to assist him in counting votes and no person shall be appointed to assist in counting the votes, who has been employed by or on behalf of any candidate for any purpose whatsoever connected with the election.

(*2*) The Commissioner shall, before he commence to count the votes, read the provisions of section 69 of the City of Bangalore Municipal Corporation Act, 1949, to such persons as may be present, and shall then proceed as follows :—

(*a*) The ballot box or boxes relating to all polling stations in the division bearing the same serial number and colour and all envelopes of the same colour as those boxes, enclosed in the covers which may have been received under rule 29 shall be opened one after another. The ballot papers shall be taken out therefrom, and counted and the total number of votes secured by the candidate concerned recorded in a statement. He shall then proceed similarly with the boxes and envelopes of

each colour which may have been prescribed in the division.

(*b*) The Commissioner shall allow the candidates and their agents reasonable opportunities to inspect, without handling, all ballot papers which in his opinion are liable to be rejected. We shall endorse on every ballot paper which is rejected the word 'rejected'. If any candidate or agent present questions the correctness of the rejections, he shall also record on the ballot papers the grounds for the rejection.

(*c*) The Commissioner shall, as far as practicable, proceed continuously with the counting of the votes; and shall, during any necessary invervals during which the counting has to be suspended place the ballot papers, packets and other documents relating to the election under his own seal and the seals of such candidates or agents as may desire to affix them and shall cause adequate precautions to be taken for their custody.

**34.** (1) A ballot paper shall be rejected if it—

(*a*) bears any mark by which the elector can be identified; or

(*b*) does not bear the official stamp prescribed in rule 20; or

(*c*) bears the mark belonging to a division different from that of the ballot box in which it is found;

Provided that a ballot paper dealt with under clause (ii) sub-rule (2) of rule 29 shall not be rejected merely on the ground that it bears the mark of a division different from the one in which the elector is entitled to vote:

Provided further that a ballot paper shall not be rejected under clause (*b*) if the Commissioner is satisfied beyond reasonable doubt that the ballot paper was one issued by the polling officer.

(*2*) If two ballot papers bearing the same serial number found in a ballot box, they shall count only as one vote in favour of the candidate to whom that box is assigned.

(*3*) Except on the ground mentioned, in sub-rules (1) and (2), no ballot paper shall be rejected.

(*4*) The decision of the Commissioner as to the validity of a ballot paper shall be final, subject only to reversal on an election petition.

**35.** (1) After the Commissioner has completed the scrutiny and counting of votes he shall prepare a statement of the results of the polling in Form X and shall subject to the provisions of rule 39, declare that the candidate or candidates to whom most valid votes have been given, has or have been duly elected :

Provided that if a seat is reserved for any community or for women, the Commissioner shall first declare the candidate belonging to that community or who is a woman, as the case may be, to whom the largest number of votes have been given to be elected to such reserved seat.

(2) Any candidate or his agent shall, on application, be permitted to take a copy of an extract from the statement in Form X.

**36.** (1) The Commissioner shall not open the sealed packets containing tendered ballot papers, the marked copy of the electoral roll or the counterfoils of the ballot papers. He shall verify the statement submitted by the Polling Officer under rule 32 by comparing it with the number of accepted ballot papers and of rejected ballot papers and the unused ballot papers in his possession.

(2) The Commissioner shall then make up into separate bundles in respect of each candidate :

(i) such of the ballot papers as have been accepted as valid ; and

(ii) the remaining ballot papers which have been rejected as invalid.

He shall then make up both the bundles into one packet and seal the packet with his own seal. He shall also enclose and re-seal each of the other packets which were opened by him and record on each such packet a description of its contents.

**Disposal of Ballot Papers.**

**37.** (1) The Commissioner shall, after declaring the results, retain in his custody, the packets of ballot papers, whether counted, rejected or tendered, and of the counter-

foils thereof. These packets shall not be opened and their contents shall not be inspected or produced except under the orders of an election or other competent court.

(2) The Commissioner shall retain the packets and the marked copies of the electoral roll for a year and shall then, unless otherwise directed by the orders of an election or other competent court, cause them to be destroyed.

**38.** The name or names of the candidate or candidates duly elected shall be forwarded without delay by the Commissioner to the Superintendent, Government Press, for publication in the official Gazette and also be published on the notice board of the Municipal Office.

**39.** (1) If any question arises as to the interpretation of these rules otherwise than in connection with an inquiry held under the rules for the decision of disputes as to the validity of an election, the question shall be referred to the Government whose decision shall be final.

(2) Pending the decision of the Government on any such reference made to them or the issue of final orders on any inquiry which the Government may institute upon receipt of information that an election is being or about to be hold in contravention of the rules, it shall be lawful for the Government to direct the stay of the election proceeding at any stage thereof prior to the declaration of the results. Any election held or continued in contravention of the orders of the Government under this rule shall be void and of no effect whatsoever.

(3) Unless it is otherwise ordered by the Government, election proceedings stayed under this rule shall, on cancellation of the stay order, proceed from the stage at which they were stayed on fresh dates to be fixed.

(4) If any difficulty arises as to the holding of any election under these rules, the Government may, by order, do anything not inconsistent with these rules which appears to them necessary for the proper holding of the election. Every order passed under this sub-rule shall be laid before each of the chambers of the provincial Legislature at its next meeting.

## Elections for Labour Seats.

**40.** Rules 1 to 39 shall apply *mutatis mutandis* to the conduct of elections to fill the seats specially reserved for labour as if the words 'Labour Electorate' were substituted for the word 'division' wherever it occurs in the said rules;

Provided that the amount of the deposit to be made by candidates not belonging to scheduled castes, shall be fifty rupees only.

## Rules applicable to elections to both the Divisional and Labour Seats.

**41.** Notwithstanding anything contained in the foregoing rules, the Government may, for special reasons, empower the Commissioner to fix dates and periods other than those specified or fixed by or under these rules, for all or any of the stages of the election proceedings connected therewith.

**42.** In these rules unless there is anything repugnant to the subject or context :—

(*a*) "the Act" means the City of Bangalore Municipal Corporation Act, 1949.

(*b*) "Commissioner" means the Commissioner of the Corporation of Bangalore.

(*c*) "Government" means the Government of Mysore.

A. C. NIRVANI GOWDA,

*Secretary to Government,*
*General Department.*

## FORM I.

(*See Rule 2 (1).*)

### CORPORATION OF BANGALORE.

NOMINATION PAPER.

1. Name and number of the — Division / Labour Electorate.
2. Full name of candidate.
3. Number of candidate in the electoral roll.
4. Father's or Husband's name.
5. Age.
6. Sex.
7. Community.
8. Occupation and address.
9. Full name of proposer.
10. Number of proposer in the electoral roll.
11. Signature of the proposer.
12. Full name of the seconder.
13. Number of the seconder in the electoral roll.
14. Signature of the seconder.

*Candidate's Declaration.*

I declare that I am willing to stand for election.

Signature of the candidate.

Endorsement by the Commissioner or other authorised person.
Serial No.

This nomination paper was presented to me by (person)
at (date and hour)

Signature of the Commissioner or
other authorised person.

*Instruction.*

Nomination papers which are not presented to the Commissioner or other authorised person before (hour) on the day of 1950, shall not be received.

## FORM II.

(*See Rule* 5.)

CORPORATION OF BANGALORE.

List of nomination received on (date) for Division

Labour Electorate.

1. Serial Number
2. Name of candidate.
3. Father's or Husband's name.
4. Community.
5. Occupation and address.

NOTE.—The nomination papers will be taken up for scrutiny at A.M./P.M. on the day of at (place)

Commissioner or
other authorised person.

**Instruction.*—Letter and brackets (S) shall be added after the name if the candidate is a women.

## FORM III.

(*See Rule 10 (2).*)

LIST OF VALID NOMINATIONS.

Corporation of Bangalore Division / Labour Electorate.

| Sl. No. | Names of candidates | Sex of candidates | Communities to which the candidate belong | Address of the candidate | Distinctive colours assigned to candidates |
|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | | | |

NOTE.—The poll will be taken and at the Polling Stations between already notified.

Commissioner.

## FORM IV.

(*See Rule 20*).

Corporation of Bangalore——Division.
Labour Electorate.

Serial.
Number.

## FORM IVA.

(*See Rule (20*).

Corporation of Bangalore——Division.
Labour Electora te.

Serial.
Number.

## FORM V.

(*See Rule 26*).

Tendered Voters List.

Corporation of Bangalore.
Division.
Labour Electorate.

| Name and Number. | Division Labour Electorate. | Name of elector. | Number in electoral roll | Signature of elector or impression of elector if illiterate and address. |
|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 |

## FORM VI.

(*See Rule* 27).

CORPORATION OF BANGALORE.

Declaration of personation.

I (name) hereby declare and undertake to prove that the person described below has, by applying for a ballot paper at this polling station, committed the offence of personation.

Description of the person.

| Name | Address | Signature or thumb impression. |
|---|---|---|

Signature of candidate or agent.

Witnesses :—

1. (Name and address).
2. (Name and address).

(Before me)
Signature of the polling officer

Division.

Labour Electorate

Corporation of Bangalore.

## FORM VII.

(*See Rule* 27).

LIST OF CHALLENGED VOTES.

Division.

Corporation of Bangalore.

Labour Electorate.

Name of polling station.

Signature sheet No.

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Number of elector on the elector roll. | Name of elector | Signature of elector if literate or thumb impression of elector if illiterate. | Signature and address of identifier if any. |

Orders of the polling officer (in each case)

Signature of the Polling Officer.

## FORM VIII.

*(See rule 29).*

### CORPORATION OF BANGALORE.

Form of certificate entitling a person to vote outside polling area :—

Certified that.....entitled to vote at.....for..... $\frac{\text{Division}}{\text{Labour Electorate}}$ has been employed in connection with the election for $\frac{\text{Division}}{\text{Labour Electorate}}$ and is prevented from voting at the said station and that I have therefore authorised him to vote at.....

Station.....

Date..... Signature of the Commissioner.

## FORM IX.

*(See rule 32).*

Statement of polling Officer at..... in the $\frac{\text{Division}}{\text{Labour electorate}}$ Corporation of Bangalore after the polling on 195 .

Division / Labour Electorate

| Description. | Number received | Number of ballot paper in boxes. | Number of ballot paper in packets Rule 29 (2) (ii) | Number of tendered ballot papers rule 26. | Number unused. | Number spoilt. | Ballot papers dealt with under Rule 29 (2) (i) included under column (3). | Remarks. |
|---|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| Ballot papers. | | | | | | | | |

## FORM X.

*(See rule 35).*

Return showing results of the election for seats reserved for $\frac{\text{Division}}{\text{Labour Electorate}}$ of the Corporation of Bangalore.

Number..... Name of candidate.....Number of valid votes

Total number of valid votes ;

Total number of invalid votes :

I do hereby declare that the following $\frac{\text{candidate}}{\text{candidates}}$ $\frac{\text{has}}{\text{have}}$ been duly elected for.....division to the seat reserved for

$\frac{\text{to the seat reserved for*}}{\text{to the general seat*}}$

Commissioner.

*Not to be filled in the case of election to seats reserved for Labour.

.....

*General Secretary to Government.*

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## PART IV

### Section 1-A

### BILLS INTRODUCED IN THE CENTRAL LEGISLATURE WHICH IF ENACTED WILL APPLY TO MYSORE AND THE REPORTS OF SELECT COMMITTEES, IF ANY, THEREON.

## NOTIFICATION.

No. L. D. 968—Legis. 30-49-4, dated Bangalore, the 18th January 1949.

Ordered that the accompanying Mines Bill, 1949 (60 of 1949), Administration of Evacuee Property Bill, 1949, (63 of 1949), and the Central Reserve Police Force Bill, 1949 (65 of 1949) published in the Gazette of India, dated December 17, 1949, be republished in the *Mysore Gazette* for general information.

By Order,

B. S. PUTTASWAMY,

*Legal Remembrancer and Secretary to Government, Law Department.*

**Bills Introduced in the Constituent Assembly of India (Legislative), Reports of Select Committees presented to the Constituent Assembly of India (Legislative) and Bills published under Rule 39 of the Constituent Assembly (Legislative) Rules of Procedure and Conduct of Business.**

## GOVERNMENT OF INDIA.

## CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE).

The following Bill was introduced in the Constituent Assembly of India, (Legislative) on the 8th December, 1949:—

A. BILL* No. 60 OF 1949.

*A Bill to amend and consolidate the law relating to the regulation of labour and safety in mines.*

WHEREAS it is expedient to amend and consolidate the law relating to the regulation of labour and safety in mines;

It is hereby enacted as follows:—

### CHAPTER I.

### PRELIMINARY.

1. **Short title, extent and commencement.**—(1) This Act may be called the Mines Act, 1949.

(2) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.

(3) It shall come into force on the first day of April, 1951.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) "adolescent" means a person who has completed his fifteenth year but has not completed his eighteenth year;

* The Governor-General has, in pursuance of sub-section (3) of section 37 of the Government of India Act, 1935, recommended to the Constituent Assembly of India (Legislative) the consideration of the Bill.

(*b*) "adult" means a person who has completed his eighteenth year;

(*c*) "agent", when used in relation to a mine, means any person, whether appointed as such or not, who acts as the representative of the owner in respect of the management of the mine or of any part thereof, and as such superior to a manager under this Act;

(*d*) "Chief Inspector" means the Chief Inspector of Mines appointed under this Act;

(*e*) "child" means a person who has not completed his fifteenth year;

(*f*) "day" means a period of twenty-four hours beginning at midnight;

(*g*) "District Magistrate" means, in a Presidency-town, the person appointed by the Central Government to perform the duties of a District Magistrate under this Act in that town;

(*h*) a person is said to be "employed" in a mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations;

(*i*) "Inspector" means an Inspector of Mines appointed under this Act, and includes a District Magistrate when exercising any power or performing any duty of an Inspector which he is empowered by this Act to exercise or perform;

(*j*) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes—

(*i*) every shaft in the course of being sunk;

(*ii*) every level and inclined plane in the course of being driven;

(*iii*) all shafts, levels, planes, machinery, works, tramways and sidings, whether above or below ground, in or adjacent to or belonging to the mine;

(*iv*) any workshop situated within the precincts of the mine and under the same management and used solely for purposes connected with that mine or a number of mines under the same management;

(v) any power station for supplying electricity solely for the purpose of working the mine, or any group of mines; and

(vi) unless exempted by the Central Government by notification in the official Gazette, any premises or part thereof on which any process ancillary to the getting, dressing or preparation for sale of minerals or of coke is being carried on;

(k) "office of the mine" means an office at the surface of the mine concerned;

(l) "owner", when used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof and in the case of a mine the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver; but does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine, subject to any lease, grant or licence for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability;

(m) "prescribed" means prescribed by rules, regulations or bye-laws, as the case may be;

(n) "qualified medical practitioner" means a person holding a qualification granted by an authority specified in the Schedule to the Indian Medical Degress Act, 1916, (VII of 1916), or in the Schedule to the Indian Medical Council Act, 1933 (XXVII of 1933);

(o) "regulations", "rules" and "bye-laws" mean respectively regulations, rules and bye-laws made under this Act;

(p) where work of the same kind is carried out by two or more sets of persons working during different periods of the day each of such sets is called a "relay";

(q) "**serious bodily injury**" **means any injury which involves**, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb or the enforced absence of the injured person from work for a period exceeding twenty days;

(*r*) "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

**3. Rule of construction in application of Act to Acceding States.**—In the application of this Act to any Acceding State, unless there is anything repugnant in the subject or context,—

(*a*) references to the Provinces of India or to a Province of India shall be construed as references to that Acceding State;

(*b*) references to any Provincial Government shall be construed as references to the Government of that Acceding State;

(*c*) references to the official Gazette in relation to a Province shall be construed as references to the official Gazette or other corresponding official publication of that Acceding State and

(*d*) references to any enactment in force in the Provinces of India but not in force in that Acceding State shall be construed as references to the corresponding law, if any, in force in that Acceding State.

**4. References to time of day.**—In this Act, references to time of day are references to Indian standard time, being five and half hours ahead of Greenwich mean time:

Provided that, for any area in which Indian standard time is not ordinarily observed, the Central Government may make rules—

(*a*) specifying the area;

(*b*) defining the local mean time ordinarily observed therein; and

(*c*) permitting such time to be observed in all or any of the mines situated in the area.

## CHAPTER II.

### INSPECTORS AND CERTIFYING SURGEONS.

**5. Chief Inspector and Inspectors.**—(*1*) The Central Government may, by notification in the official Gazette, appoint a duly qualified person to be Chief Inspector of Mines for all the territories to which this Act extends and duly qualified persons to be Inspectors of Mines subordinate to the Chief Inspector.

(*2*) No person shall be appointed to be Chief Inspector or an Inspector or having been appointed shall continue to hold such office who

is or becomes directly or indirectly interested in any mine or mining rights in India.

(3) The District Magistrate may exercise the powers and perform the duties of an Inspector subject to the general or special orders of the Central Government:

Provided that nothing in this sub-section shall be deemed to empower a District Magistrate to exercise any of the powers conferred by section 22 or section 61.

(4) The Chief Inspector and all Inspectors shall be deemed to be public servants within the meaning of the Indian Penal Code (Act XLV of 1860).

**6. Functions of Inspectors.**—(1) The Chief Inspector may, by order in writing, prohibit or restrict the exercise by any Inspector named, or any class of Inspectors specified, in the order of any power conferred on Inspectors by this Act, and shall subject as aforesaid, declare the local area or areas within which, or the group or class of mines with respect to which Inspectors shall exercise their respective powers.

(2) The Inspectors shall give information to owners, agents and managers of mines, situate within the local area or areas or belonging to the group or class of mines, in respect of which he exercises powers under sub-section (1) as to all regulations and rules which concern them respectively and as to the places where copies of such regulations and rules may be obtained.

**7. Powers of Inspectors of Mines.**—The Chief Inspector and any Inspector may—

(a) make such examination and inquiry as he things fit in order to ascertain whether the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder are observed in the case of any mine;

(b) with such assistants, if any, as he thinks fit, enter, inspect and examine any mine or any part thereof at any time by day or night;

(c) examine into, and make inquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the mine, the sufficiency of the bye-laws for the time being in force relating to the mine, and all matters and things connected with or relating to the health, safety and welfare of the person employed in the mine, and take whether on the

precincts of the mine or elsewhere, statements of any person which he may consider necessary for carrying out the purposes of this Act;

(*d*) exercise such other powers as may be prescribed by regulations made by the Central Government in this behalf:

Provided that no person shall be compelled under this section to answer any question or make any statement tending to incriminate himself.

**8. Powers of special officer to enter, measure, etc.**—Any person in the service of the Government duly authorised in this behalf by a special order in writing of the Chief Inspector or of an Inspector may for the purpose of surveying, levelling or measuring any mine, after giving not less than three days' notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof at any time by day or night:

Provided that, where in the opinion of the Chief Inspector or of an Inspector an emergency exists, he may, by order in writing, authorise any such person to enter the mine for any of the aforesaid purposes without giving any such notice.

**9. Facilities to be afforded to Inspectors.**—Every owner, agent and manager of a mine shall afford the Chief Inspector and every Inspector and every person authorised under section 8 all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Act.

**10. Secrecy of information obtained.**—(*1*) All copies of and extracts from registers or other records appertaining to any mine and all other information acquired by the Chief Inspector or an Inspector or by any one assisting him, in the course of the inspection of any mine under this Act or acquired by any person authorised under section 8 in the exercise of his duties thereunder, shall be regarded as confidential and shall not be disclosed to any person or authority unless the Chief Inspector or the Inspector considers disclosure necessary to ensure the health, safety or welfare of any person employed in the mine or in any other mine adjacent thereto.

(*2*) Nothing in sub-section (*1*) shall apply to the disclosure of any such information (if so required) to,—

(*a*) any Court;

(*b*) a Mining Board, Committee, or Court of Inquiry constituted or appointed under section 12, section 13 or section 24 as the case may be;

(*c*) an official superior or the owner, agent or manager of the mine concerned;

(*d*) a Commissioner for workmen's compensation appointed under the Workmen's Compensation Act, 1923 (VIII of 1923);

(*e*) the Director, Indian Bureau of Mines.

(*3*) If the Chief Inspector, or an Inspector or any other person referred to in sub-section (*1*) discloses, contrary to the provisions of this section, any such information as aforesaid without the consent of the Central Government, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(*4*) No Court shall proceed to the trial of any offence under this section except with the previous sanction of the Central Government.

**11, Certifying surgeons.**—(*1*) The Central Government may appoint qualified medical practioners to be certifying surgeons for the purposes of this Act within such local limits or for such mine or class or description of mines as it may assign to them respectively.

(*2*) Subject to such conditions as the Central Government may think fit to impose, a certifying surgeon may, with the approval of the Central Government, authorise any qualified medical practitioner to exercise all or any of his powers under this Act for such period as the certifying surgeon may specify, and references to a certifying surgeon shall be deemed to include references to any qualified medical practitioner when so authorised.

(*3*) No person shall be appointed to be or authorised to exercise the powers of a certifying surgeon, or, having been so appointed or authorised, continue to exercise such powers, who is or becomes the owner, agent or manager of a mine, or is or becomes directly or indirectly interested therein, or in any process or business carried on therein or in any patent or machinery connected therewith, or is otherwise in the employment of the mine.

(*4*) The certifying surgeon shall carry out such duties as may be prescribed in connection with—

(*a*) the examination and certification of adolescents under this Act;

(*b*) the examination of persons egaged in a mine in such dangerous occupations or processes as may be prescribed;

(c) the exercise of such medical supervision as may be prescribed for any mine or class or description of mines where—

(i) cases of illness have occurred which it is reasonable to believe are due to the nature of any process carried on or other conditions of work prevailing in the mine;

(ii) adolescents are or are to be employed in any work which is likely to cause injury to their health.

## CHAPTER III.

### MINING BOARDS AND COMMITTEES.

**12. Mining Boards.**—(*1*) The Central Government may constitute for any part of the territories to which this Act extends, or for any group or class of mines, a Mining Board consisting of—

(*a*) a person in the service of the Government, not being the Chief Inspector or an Inspector, nominated by the Central Government to act as chairman;

(*b*) the Chief Inspector or an Inspector nominated by the Central Government;

(*c*) a person, not, being the Chief Inspector or an Inspector, nominated by the Central Government;

(*d*) two persons nominated by owners of mines or their representatives in such manner as may be prescribed;

(*e*) two persons to represent the interest of miners, who shall be nominated in accordance with the following provisions, namely,—

(i) if there are one or more registered trade unions having in the aggregate as members not less than one-quarter of the miners, the said persons shall be nominated by such trade union or trade unions in such manner as may be prescribed;

(ii) if sub-clause (i) is not applicable and there are one or more registered trade unions having in the aggregate as members not less than one thousand miners, one of the said persons shall be nominated by such trade union or trade unions in such manner as may be prescribed and the other by the Central Government;

(iii) if neither sub-clause (*i*) nor sub-clause (*ii*) is applicable, the said persons shall be nominated by the Central Government.

*Explanation.*—In this clause 'miner' means a person employed, otherwise than in a position of supervision or management, in any of the mines for which the Mining Board is constituted.

(*2*) The chairman shall appoint a person to act as secretary to the Board.

(*3*) The Central Government may give directions as to the payment of travelling expenses incurred by the secretary or any member of any such Mining Board in the performance of his duty as such secretary or member.

**13. Committees.**—(1) Where under this Act any question relating to a mine is referred to a Committee, the Committee shall consist of—

(*a*) a chairman nominated by the Central Government or by such officer or authority as the Central Government may authorise in this behalf;

(*b*) a person nominated by the chairman and qualified by experience to dispose of the question referred to the Committee; and

(*c*) two persons to represent the interests of the persons employed in the mine of whom one shall be nominated by the owner, agent or manager of the mine concerned, and the other shall be nominated by the Central Government in consultation with such organisations of persons employed in the mine as may be recognised for the purpose by that Government.

(*2*) No Inspector or person employed in or in the management of any mine concerned shall serve as chairman or member of a Committee appointed under this section.

(*3*) Where an owner, agent or manager fails to exercise his power of nomination under clause (*c*) of sub-section (*1*), the Committee may not withstanding such failure, proceed to inquire into and dispose of the matter referred to it.

(*4*) The Committee shall hear and record such information as the Chief Inspector or the Inspector, or the owner, agent or manager of the mine concerned, may place before it, and shall intimate its decision to the Chief Inspector or the Inspector and to the owner, agent or manager of the mine, and shall report its decision to the Central Government.

(*5*) On receiving such report the Central Government shall pass orders in conformity therewith unless the Chief Inspector or the owner, agent or manager of the mine has lodged an objection to the decision of the Committee, in which case the Central Government

may proceed to review such decision and to pass such orders in the matter as it may think fit:

Provided that if an objection is lodged by the Chief Inspector, notice of the same shall be given to the owner, agent or manager of the mine before any orders are passed thereon by the Central Government.

(*6*) The Central Government may give directions as to the remuneration, if any, to be paid to the members of the Committee or any of them, and as to the payment of expenses of the inquiry including such remuneration.

**14. Powers of Mining Boards.**—(*1*) Any Mining Board constituted under section 12 and any Committee constituted under section 13 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purpose of deciding or reporting upon any matter referred to it.

(*2*) Every Mining Board constituted under section 12 and every Committee appointed under seation 13 shall have the powers of a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by any such Mining Board or Committee to furnish information before it shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code (Act XLV of 1860).

**15. Recovery of Expenses.**—The Central Government may direct that the expenses of any inquiry conducted by a Mining Board constituted under section 12 or by a Committee appointed under section 13 shall be borne in whole or in part by the owner or agent of the mine concerned, and the amount so directed to be paid may, on application by the Chief Inspector or an Inspector to a Magistrate having jurisdiction at the place where the mine is situated or where such owner or agent is for the time being resident, be recovered by the distress and sale of any movable property within the limits of the Magistrate's jurisdiction belonging to such owner or agent.

## CHAPTER IV.

### MINING OPERATIONS AND MANAGEMENT OF MINES.

**16. Notice to be given of mining operations.**—(*1*) The owner, agent or manager of a mine shall, before the commencement of any mining operation, give to the Chief Inspector, the Director, Indian Bureau

of Mines and the District Magistrate of the district in which the mine is situate, notice in writing in such form and containing such particulars relating to the mine as may be prescribed.

(2) Any notice given under sub-section (1) shall be so given as to reach the persons concerned at least one month before the commencement of any mining operation.

**17. Managers.**—Save as may be otherwise prescribed every mine shall be under one manager who shall have the prescribed qualifications and shall be responsible for the control, management and direction of the mine; and the owner or agent of every mine shall appoint himself or some other person, having such qualifications, to be such manager.

**18. Duties and responsibilities of owners, agents and managers.**—(*1*) The owner, agent and manager of every mine shall be responsible that all operations carried on in connection therewith are conducted in accordance with the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder.

(*2*) In the event of any contravention of any such provisions by any person whosoever, the owner, agent and manager of the mine shall each be deemed also to be guilty of such contravention unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing those provisions, to prevent such contravention:

Provided that the owner or agent shall not be so deemed if he proves—

(*a*) that he was not in the habit of taking, and did not in respect of the matter in question take, any part in the management of the mine; and

(*b*) that he had made all the financial and other provisions necessary to enable the manager to carry out his duties; and

(*c*) that the offence was committed without his knowledge, consent or connivance.

(*3*) Save as hereinbefore provided, it shall not be a defence in any proceedings brought against an owner or agent of a mine under this section that a manager of the mine has been appointed in accordance with the provisions of this Act.

## CHAPTER V.

### PROVISIONS AS TO HEALTH AND SAFETY.

**19. Drinking Water.**—(*1*) In every mine, both above and below ground, effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all persons employed therein a sufficient supply of wholesome drinking water.

(*2*) All such points shall be legibly marked 'DRINKING WATER' in a language understood by a majority of the persons employed in the mine and no such point shall be situated within twenty feet of any washing place, urinal or latrine, unless a shorter distance is approved in writing by the Chief Inspector.

(*3*) In every mine wherein more than two hundred and fifty persons are ordinarily employed provision shall be made for cooling drinking water during hot weather by effective means and for distribution thereof.

(*4*) In respect of all mines or any class or description of mines, the Central Government may make rules for securing compliance with the provisions of sub-sections (*1*), (*2*) and (*3*) and for the examination by prescribed authorities of the supply and distribution of drinking water.

**20. Conservancy.**—(*1*) There shall be provided, separately for males and females in every mine, sufficient number of latrines and urinals of prescribed types so situated as to be convenient and accessible to persons employed in the mine at all times.

(*2*) All latrines and urinals provided under sub-section (*1*) shall be adequately lighted, ventilated and at all times maintained in a clean and sanitary condition.

(*3*) The Central Government may specify the number of latrines and urinals to be provided in any mine, in proportion to the number of males and females ordinarily employed in the mine and provide for such other matters in respect of sanitation in mines (including the obligations in this regard of persons employed in the mine) as it may consider necessary in the interests of the health of the persons so employed.

**21. Medical appliances.**—(*1*) In every mine, both above and below ground, there shall be provided and maintained so as to be readily accessible during all working hours first-aid boxes or cupboards equipped with the prescribed contents, and the number of such boxes

or cupboards shall not be less than one for every one hundred and fifty persons ordinarily employed in the mine.

(*2*) Nothing except the prescribed contents shall be kept in the boxes and cupboards referred to in sub-section (*1*) and all such boxes and cupboards shall be kept in the charge of any person employed in the mine who is trained in such first-aid treatment as may be prescribed and who shall always be available during the working hours of the mine.

(*3*) In every mine wherein more than five hundred persons are employed, there shall be provided and maintained an ambulance room of the prescribed size containing the prescribed equipment and in the charge of such medical and nursing staff as may be prescribed.

**22. Powers of Inspectors when causes of danger not expressly provided against exist or when employment of persons is dangerous.**—(*1*) If in respect of any matter for which no express provision is made in this Act, or in the regulations, rules or bye-laws or in any orders made thereunder it appears to the Chief Inspector or the Inspector that any mine, or any part thereof or any matter, thing or practice in or connected with the mine, or with the control, management or direction thereof, is dangerous to human life or safety, or defective so as to threaten, or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine, and shall state in the notice the particulars in which he considers the mine, or part thereof, or the matter, thing or practice, to be dangerous or defective and require the same to be remedied within such time as he may specify in the notice.

(*2*) Without prejudice to the generality of the provisions contained in sub-section (*1*), the Chief Inspector or the Inspector may, by order in writing addressed to the owner, agent or manager of a mine, prohibit the extraction or reduction of pillars in any part of the mine if, in his opinion, such operation is likely to cause the crushing of pillars or the premature collapse of any part of the workings or otherwise endanger the mine, or if, in his opinion, adequate provision against the outbreak of fire has not been made by providing for the sealing off and isolation of the part of the mine in which such operation is contemplated and for restricting the area that might be affected by a fire, and the provisions of sub-sections (4), (*5*), (*6*) and (*7*), shall apply to an order made under this sub-section as they apply to an order made under sub-section (*3*).

(*3*) If the Chief Inspector or an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector is of opinion that there is urgent and immediate danger to the life or safety

of any person employed in any mine or part thereof, he may, by an order in writing containing a statement of the grounds of his opinion, prohibit, until the danger is removed, the employment in or about the mine or any part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(*4*) Where an order has been made under sub-section (*3*) by an Inspector, the owner, agent or manager of the mine may, within ten days after the receipt of the order, appeal against the same to the Chief Inspector who may confirm, modify or cancel the order.

(*5*) The Chief Inspector or the Inspector making a requisition under sub-section (*1*) or an order under sub-section (*3*), and the Chief Inspector making an order (other than an order of cancellation) in appeal under sub-section (*4*) shall forthwith report the same to the Central Government.

(*6*) If the owner, agent or manager of the mine objects to a requisition made under sub-section (*1*) or to an order made by the Chief Inspector under sub-section (*3*), or sub-section (*4*), he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of the decision of the appeal, as the case may be, send his objection in writing stating the grounds thereof, to the Central Government which shall refer the same to a Committee.

(*7*) Every requisition made under sub-section (*1*), or order made under sub-section (*3*), or sub-section (4) to which objection is made under sub-section (*6*), shall be complied with pending the receipt at the mine of the decision of the Committee :

Provided that the Committee may, on the application of the owner, agent or manager, suspend the operation of a requisition under sub-section (*1*), pending its decision on the objection.

(*8*) Nothing in this section shall affect the powers of a Magistrate under section 144 of the Code of Criminal Procedure, 1898 (Act V of 1898).

**23. Notice to be given of accidents.**—(*1*) When any accident occurs in or about a mine causing loss of life or serious bodily injury or when an accidental explosion, ignition, spontaneous heating, outbreak of of fire, irruption of water, breakage of ropes, chains or other gear by which men are lowered or raised, or when an accidental overwinding of cages occurs in or about a mine while men or being lowered or raised, the owner, agent or manager of the mine shall give notice of the occurrence to such authority, in such form and within such time as may be prescribed, and he shall simultaneously post one copy of

the notice on a special notice board in the prescribed manner at a place where it may be inspected by trade union officials and shall ensure that the notice is kept on the board for not less than two months from the date of such posting.

(*2*) On receipt of the notice under sub-section (*1*), the authority shall, if he is the Inspector, or if he is not the Inspector, cause the Inspector to make an inquiry into the occurrence within two months of the receipt of the notice.

(*3*) The Central Government may, by notification in the official Gazette, direct that accidents other than those specified in sub-section (*1*), which cause bodily injury resulting in the enforced absence from work of the person injured for a period exceeding forty-eight hours shall be entered in a register in the prescribed form or shall be subject to the provisions of sub-section (*1*).

(*4*) A copy of the entries in the register referred to in sub-section (*3*) shall be sent by the owner, agent, or manager of the mine, within fourteen days after the 30th day of June and the 31st day of December in each year, to the Chief Inspector.

**24. Power of Government to appoint Court of Inquiry in cases of accidents.**—(*1*) When any accident occurs in or about a mine causing loss of life or serious bodily injury or when an accidental explosion, ignition, spontaneous heating, outbreak of fire, irruption of water, breakage of ropes, chains or other gear by which men are lowered or raised, or when an accidental overwinding of cages occurs in or about a mine while men are being lowered or raised, the Central Government may, if it is of opinion that a formal inquiry into the causes of and circumstances attending the accident ought to be held, appoint a competent person to hold such inquiry and may also appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.

(*2*) The person appointed to hold any such inquiry shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by such person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code (Act XLV of 1860).

(*3*) Any person holding an inquiry under this section may exercise such of the powers of an Inspector under this Act as he may think it necessary or expedient to exercise for the purposes of the inquiry.

(*4*) The person holding an inquiry under this section shall make a report to the Central Government stating the causes of the accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make.

**25. Notice of certain diseases.**—(*1*) Where any person employed in a mine contracts any disease notified by the Central Government in the official Gazette as a disease connected with mining operations, the owner, agent or manager of the mine, as the case may be, shall send notice thereof to the Chief Inspector and to such other authorities, in such form and within such time as may be prescribed.

(*2*) If any medical practitioner attends on a person who is or has been employed in a mine and who is or is believed by the medical practitioner to be suffering from any disease notified under sub-section (*1*), the medical practitioner shall without delay send a report in writing to the Chief Inspector stating—

(*a*) the name and address of the patient,

(*b*) the disease from which the patient is or is believed to be suffering, and

(*c*) the name and address of the mine in which the patient is or was last employed.

(*3*) Where the report under sub-section (*2*) is confirmed to the satisfaction of the Chief Inspector by the certificate of a certifying surgeon or otherwise that the person is suffering from a disease notified under sub-section (*1*), the Chief Inspector shall pay to the medical practioner such fee as may be prescribed, and the fee so paid shall be recoverable as an arrear of land revenue from the owner, agent or manager of the mine in which the person contracted the disease.

(*4*) If any medical practioner fails to comply with the provisions of sub-section (*2*), he shall be punishable with fine which may extend to fifty rupees.

**26. Power to direct investigation of causes of disease.**—(*1*) The Central Government may, if it considers it expedient to do so, appoint a competent person to inquire into and report to it on any case where a disease notified under sub-section (*1*) of section 25 has been or is suspected to have been contracted in a mine, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

(*2*) The provisions of sub-sections (*2*) and (3) of section 24 shall apply to an inquiry under this section in the same manner as they apply to any inquiry under that section.

**27. Publication of reports.**—The Central Government may cause any report submitted by a Committee under section 13 or any report or extracts from any report submitted to it under section 26, and shall cause every report submitted by a Court of inquiry under section 24 to be published at such time and in such manner as it may think fit.

## CHAPTER VI.

### HOURS AND LIMITATION OF EMPLOYMENT.

**28. Weekly day of rest.**—No person shall be allowed to work in a mine on more than six days in any one week.

**29. Compensatory days of rest.**—(*1*) Where in pursuance of action under section 37 or as a result of exempting any mine or the persons employed therein from the provisions of section 28, any person employed therein is deprived of any of the weekly days of rest for which provision is made in section 28, he shall be allowed, within the month in which such days of rest were due to him or within the two months immediately following that month, compensatory days of rest equal in number to the days of rest of which he has been deprived.

(*2*) The Central Government may prescribe the manner in which the days of rest for which provision is made in sub-section (*1*) shall be allowed.

**30. Hours of work above ground.**—(*1*) No adult employed above ground in a mine shall be required or allowed to work for more than forty-eight hours in any week or for more than nine hours in any day.

(*2*) The periods of work of any such adult shall be so arranged that along with his interval for rest, they shall not in any day spread over more than twelve hours, and that he shall not work for more than five hours continuously before he has had an interval for rest of at least half an hour:

Provided that the Chief Inspector may, for reasons to be recorded, increase the period of spread over to fourteen hours in any day.

(*3*) Adults belonging to two or more relays shall not be allowed to do work of the same kind above ground at the same moment:

Provided that, for the purposes of this sub-section, adults shall not be deemed to belong to separate relays by reason only of the fact that they receive their intervals for rest at different times.

**31. Hours of work below ground.**—(*1*) No adult employed below ground in a mine, except a pump-minder, an onsetter or attendant of continuously operated machinery, shall be allowed to work for more than forty-eight hours in any week or for more than eight hours in any day.

(*2*) No adult excepted under sub-section (*1*) shall be allowed to work for more than fifty-four hours in any week or for more than nine hours in any day.

(*3*) Work of the same kind shall not be carried on below ground in any mine for period spreading over more than eight hours in the case of adults referred to in sub-section (*1*), and nine hours in the case of adults referred to in sub-section (*2*), in any day except by a system of relays so arranged that the periods of work for each relay are not spread over more than the hours stipulated in sub-section (*1*) or sub-section (*2*), as the case may be.

(*4*) No adult employed in a mine shall be allowed to be in any part of a mine below ground, except during the periods of work shown in respect of him in the register kept under sub-section (*1*) of section 48.

**32. Special provision for night relays.**—Where a worker works in a relay whose period of work extends over midnight, the ensuing day for him shall be deemed to be the period of twenty-four hours beginning at the end of the period of work fixed for the relay, and the hours he has worked after midnight shall be counted towards the previous day.

**33. Extra wages for overtime.**—(*1*) Where a person employed in a mine works therein for more than forty-eight hours whether above or below ground, he shall in respect of such overtime work be entitled to wages at the rate of twice his ordinary rate of wages if he works below ground, and at one and a half times that rate if he works above ground.

(*2*) Where any person employed in a mine is paid on piece-rate basis, the Central Government shall, in consultation with the employer concerned and the representatives of the persons employed in the mine, fix for the purposes of this section time rates which shall, as nearly as possible be equivalent to the average rate of earnings of the persons so employed, and the rates so fixed shall be deemed to be the ordinary rates of wages of such persons.

(*3*) For the purposes of this section 'ordinary rate of wages' means the basic wages *plus* such allowances including the cash equivalent of the advantage accruing through the sale on a concessional basis of

foodgrains and other articles as persons employed in a mine may, for the time being, be entitled to, but does not include a bonus.

(4) The Central Government may prescribe the registers to be maintained in a mine for the purpose of securing compliance with the provisions of this section.

**34. Prohibition of employment of certain persons.**—No person shall be allowed to work in a mine who has already been working in any other mine within the preceding twelve hours.

**35. Limitation of periods of overtime work.**—Save in respect of cases falling within clause (*a*) of section 39, no person employed in a mine shall be allowed to work for more than ten hours in any day, inclusive of overtime, nor shall the total number of hours of his overtime work exceed fifty for any one quarter:

Provided that—

(*i*) subject to the previous approval of the Chief Inspector, the daily maximum hours specified in sections 30 and 31 may be exceeded in order to facilitate a change of shifts;

(*ii*) an adult, engaged in work which for technical reasons must be continuous throughout the day, may be employed for fifty-six hours a week.

*Explanation.*—In this section 'quarter' means a period of three consecutive months beginning with the 1st day of January, April, July or October.

**36. Notices regarding hours of works.**—(*1*) The manager of every mine shall cause to be posted outside the office of the mine a notice in the prescribed form stating the time of the commencement and of the end of work at the mine and, if it is proposed to work by a system of relays, the time of the commencement and of the end of work for each relay.

(*2*) In the case of a mine at which mining operations commence after the commencement of this Act, the notice referred to in sub-section (*1*) shall be posted not less than seven days before the commencement of work.

(*3*) The notice referred to in sub-section (*1*) shall also state the time of the commencement and of the intervals for rest for persons employed above ground and a copy thereof shall be sent to the Chief Inspector, if he so requires.

(*4*) Where it is proposed to make any alteration in the time fixed for the commencement or for the end of work in the mine generally

or for any relay or in the rest intervals fixed for persons employed above ground, an amended notice in the prescribed form shall be posted outside the office of the mine not less than seven days before the change is made, and a copy of such notice shall be sent to the Chief Inspector not less than seven days before such change.

(*5*) No person shall be allowed to work in a mine otherwise than in accordance with the notice required by sub-section (*1*).

**37. Supervising staff.**—Nothing in section 28, section 30, section 31, section 34, or sub-section (*4*) of section 36 shall apply to persons who may by rules be defined to be persons holding positions of supervision or management or employed in a confidential capacity.

**38. Exemption from provisions regarding employment.**—(*1*) In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, or in case of an accident, whether actual or apprehended, or in case of any act of God or in case of any urgent work to be done to machinery, plant or equipment of the mine as the result of breakdown of such machinery, plant or equipment, the manager may, subject to the provisions of section 22 and in accordance with the regulations under section 39, permit persons to be employed in contravention of section 28, section 30, section 31, section 34 or sub-section (*4*) of section 36, on such work as may be necessary to protect the safety of the mine or of the persons employed therein:

Provided that, in case of any urgent work to be done to machinery, plant or equipment under this section, the manager may take the action permitted by this section, although the production of coal would thereby be incidentally affected, but any action so taken shall not exceed the limits necessary for the purpose of avoiding serious interference with the ordinary working of the mine.

(*2*) Every case in which action has been taken by the manager under sub-section (*1*), shall be recorded together with the circumstances relating thereto and a report thereof shall also be made to the Chief Inspector or the Inspector.

**39. Power to make exempting rules.**—The Central Government may make rules providing for the exemption, to such extent and subject to such conditions as may be specified, from the provisions of sections 28, 30, 31, 34 or sub-section (*4*) of section 36,—

(*a*) of all or any of the persons employed in a mine, where an emergency involving serious risk to the safety of the mine or of the persons employed therein is apprehended;

(*b*) of all or any of the persons so employed, in case of an accident, actual or apprehended;

(*c*) of all or any of the persons engaged in urgent repairs; and

(*d*) of all or any of the persons employed in any work which for technical reasons must be carried on continuously throughout the day.

**40. Employment of adolescents.**—No adolescent shall be allowed to work in any part of a mine which is below ground, unless—

(*a*) a medical certificate in the prescribed form granted to the adolescent by a certifying surgeon certifying that he is fit for work as an adult is in the custody of the manager of the mine, and

(*b*) the adolescent carries, while at work, a token giving a referecne to such certificate.

**41. Certificate of fitness.**—(*1*) A certificate of fitness granted or renewed for the purposes of section 40,—

(*a*) shall be valid only for a period of twelve months from the date thereof;

(*b*) may be subject to specified conditions in regard to employment generally or the nature of the work in which the adolescent may be employed.

(*2*) A certifying surgeon shall revoke a certificate granted or renewed under section 40, if in his opinion the holder of it is no longer fit for work in the capacity stated therein in a mine.

(*3*) Where a certifying surgeon refuses to grant or renew a certificate or revokes a certificate, he shall, if so required by the person concerned, state his reasons in writing for so doing.

(*4*) Where a certificate under section 40 with reference to any adolescent is granted or renewed subject to such conditions as are referred to in clause (*b*) of sub-section (*1*), an adolescent shall not be required or allowed to work in any mine except in accordance with those conditions.

(*5*) The adolescent or his parents shall not be liable to pay any part of the expenses of any medical examination under section 40 in all cases where the application for a medical certificate is accompanied by a document signed by the manager of a mine stating that the adolescent to be examined will be employed in the mine if certified to be fit for work therein or the application is made by the manager of the mine in which the adolescent desires to be employed.

**42. Effect of certificate of fitness granted to adolescents.**—An adolescent, who has been granted a certificate of fitness to work in a mine as an adult under section 40, and who while actually employed in a mine carries a token giving a reference to such certificate, shall be deemed to be an adult for the purposes of this Act.

**43. Power to require medical examination.**—Where an Inspector is of opinion that any person employed in a mine without a certificate of fitness is an adolescent or that an adolescent working in a mine with a certificate of fitness is no longer fit to work in the capacity stated in the certificate, he may serve on the manager of the mine a notice requiring that such person or adolescent, as the case may be, shall be examined by a certifying surgeon and such person or adolescent shall not, if the Inspector so directs, be employed or permitted to work in any mine until he has been so examined and has been granted a certificate of fitness, or a fresh certificate of fitness as the case may be, under section 40, or has been certified by the certifying surgeon examining him not to be an adolescent.

**44. Working hours for adolescents not certified to be fit for work as adults.**—(*1*) No adolescent who has not been granted a medical certificate certifying that he is fit for work as an adult shall be employed or permitted to be employed above ground or in any workshop or power station in a mine or in any open cast workings in a mine—

(*a*) for more than four and a half hours in any day; or

(*b*) between the hours of 7 P.M. and 6 A.M.

(*2*) The period of work of all such adolescents employed in a mine shall be limited to two shifts which shall not overlap or spread over more than five hours each, and each such adolescent shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days.

(*3*) The provisions of section 28 shall apply to such adolescents and notwithstanding anything contained in sub-section (*1*) of section 38 or in section 39, no exemption from the provisions of section 28 shall be granted in respect of any adolescent.

**45. Employment of children.**—(*1*) No child shall be employed in any mine, nor shall any child be allowed to be present in any part of a mine which is below ground or in any open excavation in which any mining operation is being carried on.

(2) After such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, no child shall be allowed to be present in any part of a mine above ground where any operation connected with or incidental to any mining operation is being carried on.

**46. Employment of women.**—No women shall be employed at any time of the day or night in any part of a mine which is below the adjacent ground level, and no woman shall be employed in any mine above ground except between the hours of 6 A.M. and 7 P.M.:

Provided that the Central Government may, by notification in the official Gazette, vary the hours of employment of women, above ground in respect of any mine or class or description of mine, so however that no employment of any women between the hours of 10 P.M. and 5 A.M. is permitted thereby.

**47. Disputes as to age.**—(*1*) If any question arises between the Chief Inspector or Inspector and the manager of any mine as to whether any person is a child or an adolescent the question shall, in the absence of a certificate as to the age of such person granted in the prescribed manner, be referred by the Chief Inspector or the Inspector for decision to a qualified medical practitioner.

(*2*) Every certificate as to the age of a person which has been granted in the prescribed manner and any certificate granted by a qualified medical practitioner on a reference under sub-section (*1*) shall for the purposes of this Act, be conclusive evidence as to the age of the person to whom it relates.

**48. Registers of persons employed.**—(*1*) For every mine there shall be kept in the prescribed form and place a register of all persons employed in the mine showing in respect of each such person—

(*a*) the name of the employee, with the name of his father or, of her husband, as the case may be, and such other particulars as may be necessary for purposes of identification;

(*b*) the age and sex of the employee;

(*c*) the nature of his employment whether above ground, below ground or open cast workings, and the date of commencement thereof;

(*d*) the periods of work fixed for him;

(*e*) the intervals for rest, if any, and the days of rest to which he is entitled;

(*f*) in the case of an adolescent, reference to the certificate of fitness granted under section 40;

(*g*) where work is carried on by a system of relays, the relay to which he belongs and the hours of relay, that is to say, the period of work fixed for him;

(*h*) such other particulars as may be prescribed;

and the relevant entries shall be authenticated by the signature or the thumb impression of the person concerned.

(*2*) The entries in the register prescribed by sub-section (*1*) shall be such that workers working in accordance therewith would not be working in contravention of any of the provisions of this Chapter.

(*3*) No person shall be employed in a mine until the particulars required by sub-section (*1*) have been recorded in the register in respect of such person and no person shall be employed except during the periods of work shown in respect of him in the register.

(*4*) For every mine, other than a mine which is exempted by the Central Government by general or special order, there shall be kept in the prescribed form and place separate registers showing in respect of each person employed in the mine, (*a*) below ground, (*b*) in open cast workings and (*c*) above ground—

(*a*) the name of the employee;

(*b*) the nature of his employment;

(*c*) where work is carried on by a system of relays, the relay to which he belongs and the hours of relay, that is to say, the period of work fixed for him.

## CHAPTER VII.

### LEAVE WITH WAGES.

**49. Leave defined.**—For the purposes of this Chapter leave shall not, except as provided in section 51, include weekly days of rest or holidays for festivals or other similar occasions.

**50. Application of Chapter.**—The provisions of this Chapter shall not operate to the prejudice of any rights to which a person employed in a mine may be entitled under any other law for the time being in force or under the terms of any award, agreement or contract of service, and, where any such award, agreement or contract of service provides for a longer leave with wages than is provided in this Chapter, such person shall be entitled to such longer leave only.

**51. Annual leave with wages.**—(*1*) Every person employed in a mine who has completed a period of twelve months' continuous service therein shall be allowed, during the subsequent period of twelve months, leave with full pay or wages based on the average pay or wages for the twelve months immediately preceding the leave, as provided in section 52, and such leave shall be calculated at the rate of—

(*i*) if he is an employee paid by the month, fourteen consecutive days for such period of twelve months:

(*ii*) if he is an employee paid by the week, or a loader, or other person employed below ground on a piece-rate basis, seven consecutive days for such period of twelve months.

(*2*) The twelve months' continuous service referred to in sub-section (*1*) shall be deemed to have been completed.—

(*a*) in the case of a loader, or other person employed below ground on a piece-rate basis, if he has during the said period of twelve months put in not less than one hundred and ninety attendances at the mine;

(*b*) in the case of a person employed above ground on a piece-rate basis or in the case of any other person who is paid by the month, week or day, if he has during the said twelve months put in not less than two hundred and sixty-five attendances at the mine.

*Explanation.*—In either of the above cases the period of leave shall be inclusive of the weekly days of rest and any holiday (if granted) which may occur during such period.

(*3*) If any person employed in a mine who is paid by the month does not in any one such period of twelve months take the whole of the leave allowed to him under sub-section (*1*), any leave not taken by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months:

Provided that the total number of days of leave which may be accumulated by any such person shall not exceed twenty-eight days in all.

(*4*) Any such person may, during any such period of twelve months, apply in writing to the manager of the mine, not less than fifteen full working days before the day on which he wishes his leave to begin, for all leave or any portion thereof allowable to him during that period under sub-sections (*1*) and (*3*).

(5) No application for leave made in accordance with the provisions of this section shall ordinarily be refused, unless the authority empowered to grant the leave is of the opinion that owing to the exigencies of the situation the leave should be refused.

(6) If any person entitled to leave under this section is discharged from the mine before he has taken or has been allowed to take the entire leave to which he is entitled, the owner, agent or manager of the mine shall pay to him the pay or wages payable under section 51 in respect of the leave not taken and such payment shall be made before the expiry of the second working day after the day on which his employment is terminated.

*Explanation 1.*—For the purposes of this section, a person shall be deemed to have completed a period of continuous service in a mine, notwithstanding any interruption of service during that period brought about by—

(*i*) sickness, accident or authorised leave not exceeding in the aggregate one-sixth of that period, or

(*ii*) a strike, which is not an illegal strike, or

(*iii*) a lock-out, or

(*iv*) one or more periods of involuntary unemployment not exceeding in the aggregate one-twelfth of the period, or

(*v*) leave admissible or granted under any other law.

*Explanation 2.*—Authorised leave shall include any casual absence due to any reasonable cause :

Provided that the person concerned, within a week from the commencement of the absence, gives the reasons for such absence in writing to the owner, agent or manager of the mine, and any such period of authorised leave may include periods of unauthorised leave not exceeding in the aggregate one-thirty-sixth of the period of continuous service, but not weekly days of rest allowed under section 28 which occurs at the beginning or end of an interruption brought about by the leave.

*Explanation 3.*—"Illegal strike" means a strike which is an illegal strike within the meaning of section 24 of the Industrial Disputes Act, 1947 (XIV of 1947), or of any other law for the time being in force.

**52. Wages during leave period.**—(*1*) For the leave allowed to a loader, or other person employed below ground on a piece-rate basis, he shall be paid at a rate equal to the daily average of his earnings for the month of December prior to his leave:

Provided that if no such average earnings are available, then the average shall be computed on the basis of the daily average earnings of all persons similarly employed for the same month, and for the purpose of such computation the cash equivalent of the advantage accruing to such persons through the free issue of food grains and any compensation in cash drawn by them during the said month shall be taken into account.

(*2*) For the leave allowed to a person employed in a mine who is paid by the month or week he shall be paid at a rate equal to his normal daily wages during the week preceding his leave, and in computing such wages the cash equivalent of the advantage accruing to him through the free issue of food grains and any compensation in cash drawn by him shall also be taken into account.

**53. Payment in advance in certain cases.**—Any person employed in a mine who has been allowed leave for not less than ten days in the case of a person paid by the month, and five days, either in the case of a person paid by the week or in the case of a loader, or other person employed below ground on a piece-rate basis, shall, before his leave begins, be paid the wages due for the period of the leave allowed.

**54. Power of Inspector to act for an employee.**—Any Inspector may institute proceedings on behalf of any person employed in a mime to recover any sum required to be paid by an employer under this Chapter, which has not been paid by the employer.

**55. Power to make rules.**—The Central Government may, by rules, prescribe the maintenance by owners, agents or managers of mines of registers showing particulars as may be required for the purposes of this Chapter and requiring such registers to be made available for examination by Inspectors.

**56. Power to exempt mines.**—Where the Central Government is satisfied that the leave rules applicable to persons employed in any mine provide benefits which in its opinion are not less favourable than those provided for in this Chapter, it may, by order in writing and subject to such conditions as may be specified therein, exempt the mine from all or any of the provisions of this Chapter.

## CHAPTER VIII

### REGULATIONS, RULES AND BYE-LAWS.

**57. Power of Central Government to make regulations.**—The Central Government may, by notification in the official Gazette, make regulations consistent with this Act for all or any of the following purposes, namely :—

(*a*) for prescribing the qualifications required for appointment as Chief Inspector or Inspector;

(*b*) for prescribing and regulating the duties and powers of the Chief Inspector and of Inspectors in regard to the inspection of mines under this Act;

(*c*) for prescribing the duties of owners, agents and managers of mines and of persons acting under them;

(*d*) for requiring facilities to be provided for enabling managers of mines and other persons acting under them to efficiently discharge their duties;

(*e*) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency;

(*f*) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;

(*g*) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mine or mines to be under a manager not having the prescribed qualification;

(*h*) for providing for the making of inquiries into charges of misconduct or incompetency on the part of managers of mines and persons acting under them and for the suspension and cancellation of certificates of competency;

(*i*) for regulating, subject to the provisions of the Indian Explosives Act, 1884 (IV of 1884), and of any rules made thereunder, the storage, conveyance and use of explosives;

(*j*) for prohibiting, restricting or regulating the employment of women in mines or in any class of mines or on particular kinds of labour which are attended by danger to the life, safety or health of such women and for limiting the weight of any single load that may be carried by a woman;

(*k*) for providing for the safety of the persons employed in a mine, their means of entrance therein to and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences;

(*l*) for prohibiting the employment in a mine either as manager or in any other specified capacity of any person except persons paid by the owner of the mine and directly answerable to the owner or manager of the mine;

(*m*) for providing for the safety of the roads and working places in mines, including the siting, maintenance and extraction of pillars and the maintenance of sufficient barriers between mine and mine;

(*n*) for the inspection of workings and sealed off fire-areas in a mine, and for the restriction of workings under rivers, tanks, water-courses, public roads and buildings and for requiring due precaution to be taken against the onrush of water into, outbreak of fire in or premature collapse of any workings;

(*o*) for providing for the ventilation of mines and the action to be taken in respect of dust, fire, and inflammable and noxious gases, including precautions against spontaneous combustion, underground fire and coal dust;

(*p*) for providing for the care, and the regulation of the use, of all machinery and plant and of all electrical apparatus used for signalling or for other purposes of communication;

(*q*) for providing for the safety of persons present on haulage routes and for restricting the use of certain classes of locomotives undergound;

(*r*) for providing for proper lighting of mines and regulating the use of safety lamps therein and for the search of persons entering a mine in which safety lamps are in use;

(*s*) for providing against explosions or ignitions or irruptions of or accumulations of water in mines and against danger arising therefrom and for prohibiting, restricting or regulating the extraction of minerals in circumstances likely to result in the premature collapse of, or to result in or to aggravate the collapse of or irruptions of water or ignitions in mines;

(*t*) for prescribing the notices of accidents and dangerous occurrences, and the notices, reports and returns of mineral output, persons employed and other matters provided for by regulations, to be furnished by owners, agents, and managers of

mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the time within which they are to be submitted;

(*u*) for prescribing the plans to be kept by owners, agents and managers of mines and the manner and places in which such plans are to be kept for purposes of record and for the submission of copies thereof to the Chief Inspector;

(*v*) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about mines;

(*w*) for prescribing the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 16; and

(*x*) for prescribing the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within fifty yards of any railway subject to the provisions of the Indian Railways Act, 1890 (IX of 1890), or of any public work or classes of public works which the Central Government may, by general or special order, specify in this behalf.

**58. Power of Central Government to make rules.**—The Central Government may, by notification in the official Gazette, make rules consistent with this Act for all or any of the following purposes, namely:—

(*a*) for providing for the appointment of chairman and members of Mining Boards, and for regulating the procedure of such Boards;

(*b*) for prescribing the form of the register referred to in sub-section (*3*) of section 23;

(*c*) for providing for the appointment of Courts of inquiry under section 24, for regulating the procedure and powers of such Courts, for the payment of travelling allowance to the members, and for the recovery of the expenses of such Courts from the manager, owner or agent of the mine concerned;

(*d*) for requiring the maintenance in mines wherein any women are ordinarily employed of suitable rooms to be reserved for the use of children under the age of six years belonging to such women, and for prescribing, either generally or with particular reference to the number of women ordinarily employed in the mine, the number and standards of such rooms, and the nature and extent of the supervision to be provided therein;

(*e*) for requiring the maintenance at or near pit-heads of bathing places equipped with shower baths and of locker-rooms for the use of men employed in mines and of similar and separate places and rooms for the use of women in mines where women are employed, and for prescribing, either generally or with particular reference to the numbers of men and women ordinarily employed in a mine, the number and standards of such places and rooms;

(*f*) for prescribing the standard of sanitation to be maintained and the scale of latrine and urinal accommodation to be provided at mines, the provision to be made for the supply of drinking-water, the supply and maintenance of medical appliances and comforts, and the training of men in ambulance work;

(*g*) for prohibiting the possession or consumption of intoxicating drinks or drugs in a mine and the entry or presence therein of any person in a drunken state;

(*h*) for prescribing the form of notices required under section 36, and for requiring such notices to be posted also in specified languages;

(*i*) for defining the persons who shall, for the purpose of section 37, be deemed to be persons holding positions of supervision or management or employed in a confidential capacity;

(*j*) for prohibiting the employment in mines of persons or any class of persons who have not been certified by a qualified medical practitioner to have completed their fifteenth year, and for prescribing the manner and the circumstances in which such certificates may be granted and revoked;

(*k*) for prescribing the form of the certificate of fitness required by section 40, the conditions subject to which and the circumstances in which they may be granted and the circumstances in which they may be revoked;

(*l*) for prescribing the form of registers required by section 48;

(*m*) for prescribing abstracts of this Act and of the regulations and rules and the language in which the abstracts and bye-laws shall be posted as required by sections 61 and 62;

(*n*) for requiring the fencing of any mine or part of a mine or any quarry, incline, shaft, pit or outlet whether the same is being worked or not, or any dangerous or prohibited area, subsidence, haulage, tramline or pathway, where such fencing is necessary for the protection of the public;

(o) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in the Government or any local authority or railway company as defined in the Indian Railways Act, 1890 (IX of 1890);

(p) for requiring notices, returns and reports in connection with any matters dealt with by rules to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the times within which they are to be submitted;

(q) for requiring the provisions and maintenance in mines, wherein more than one hundred and fifty persons are ordinarily employed, of adequate and suitable shelters for taking food with provision for drinking water;

(r) for requiring the provision and maintenance in any mine specified in this behalf by the Chief Inspector or Inspector, wherein more than two hundred and fifty persons are ordinarily employed, of a canteen or canteens for the use of such persons;

(s) for requiring the employment in every mine wherein five hundred or more persons are ordinarily employed, of such number of welfare officers as may be specified;

(t) for requiring the establishment of central rescue stations for groups of specified mines or for all mines in a specified area, and prescribing how and by whom such stations shall be established;

(u) for providing for the management of central rescue stations, and regulating the constitution, powers and functions of, and the conduct of business by, the authorities (which shall include representatives of the owners and managers of, and of the miners employed in, the mines or groups of mines concerned) charged with such management;

(v) for prescribing the position, equipment, control, maintenance and functions of central rescue stations;

(w) for providing for the levy and collection of a duty of excise (at a rate not exceeding six pies per ton) on coke and coal produced in and despatched from mines specified under clause (s) in any group or included under clause (s) in any specified area, the utilisation of the proceeds thereof for the creation of

a central rescue station fund for such group or area and the administration of such funds;

(*x*) for providing for the formation, training, composition and duties of rescue brigades; and generally for the conduct of rescue work in mines; and

(*y*) generally to provide for any matter not provided for by this Act or the regulations, provision for which is required in order to give effect to this Act.

**59. Prior publication of regulations and rules.**—(*1*) The power to make regulations and rules conferred by sections 57 and 58 is subject to the condition of the regulations and rules being made after previous publication.

(*2*) The date to be specified in accordance with clause (*3*) of section 23 of the General Clauses Act, 1897 (X of 1897), as that after which a draft of regulations or rules proposed to be made will be taken under consideration, shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information.

(*3*) Before the draft of any regulation is published under this section it shall be referred to every Mining Board which is, in the opinion of the Central Government concerned with the subject dealt with by the regulation, and the regulation shall not be so published until each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.

(*4*) No rule shall be made unless the draft has been referred to every Mining Board constituted in the part of the territories to which this Act extends, and unless each such Board has had a reasonable opportunity of reporting as to the expediency of making the same as to the suitability of its provisions.

(*5*) Regulations and rules shall be published in the official Gazette and, on such publication, shall have effect as if enacted in this Act.

(*6*) The provisions of sub-sections (*1*), (*2*) and (*4*) shall not apply to the first occasion on which rules referred to in clause (*d*) or clause (*e*) of section 58 are made.

**60. Power to make regulations without previous publication.**—Notwithstanding anything contained in sub-sections (*1*), (*2*) and (*3*) of section 59, regulations under clause (*i*) and clauses (*k*) to (*s*) excluding clause (*l*) of section 57 may be made without previous publication

and without previous reference to Mining Boards, if the Central Government is satisfied that for the prevention of apprehended danger or the speedy remedy of conditions likely to cause danger it is necessary in making such regulations to dispense with the delay that would result from such publication and reference:

Provided that any regulations so made shall not remain in force for more than two years from the making thereof.

**61. Bye-laws.**—(*1*) The owner, agent or manager of a mine may, and shall, if called upon to do so by the Chief Inspector or Inspector, frame and submit to the Chief Inspector or Inspector a draft of such bye-laws, not being inconsistent with this Act or any regulations or rules for the time being in force, for the control and guidance of the persons acting in the management of, or employed in, the mine as such owner, agent or manager may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine.

(*2*) If any such owner, agent or manager—

(*a*) fails to submit within two months a draft of bye-laws after being called upon to do so by the Chief Inspector or Inspector, or

(*b*) submits a draft of bye-laws which is not in the opinion of the Chief Inspector or Inspector sufficient, the Chief Inspector or Inspector may—

(*i*) propose a draft of such bye-laws as appear to him to be sufficient, or

(*ii*) propose such amendments in any draft submitted to him by the owner, agent or manager as will, in his opinion, render it sufficient, and shall send such draft bye-laws or draft amendments to the owner, agent or manager as the case may be, for consideration.

(*3*) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Inspector or Inspector to the owner, agent or manager under the provisions of sub-section (*2*), the Chief Inspector or Inspector and the owner, agent or manager are unable to agree as to the terms of the bye-laws to be made under sub-section (*1*), the Chief Inspector or Inspector shall refer the draft bye-laws for settlement to the Mining Board, or where there is no Mining Board, to such officer or authority as the Central Government may, by general or special order, appoint in this behalf.

(4) (a) When such draft bye-laws have been agreed to by the owner, agent or manager and the Chief Inspector or Inspector, or, when they are unable to agree, have been settled by the Mining Board or such officer, or authority as aforesaid, a copy of the draft bye-laws shall be sent by the Chief Inspector or Inspector to the Central Government for approval.

(b) The Central Government may make such modification of the draft bye-laws as it thinks fit.

(c) Before the Central Government approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the Central Government may think best adapted for informing the persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected should be sent to the Central Government.

(d) Every objection shall be in writing and shall state—

(i) the specific grounds of objections, and

(ii) the omissions, additions or modifications asked for.

(e) The Central Government shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in form in which they were published or after making such amendments thereto as it thinks fit.

(5) The bye-laws, when so approved by the Central Government, shall have effect as if enacted in this Act, and the owner, agent or manager of the mine shall cause a copy of the bye-laws, in English and in such other language or languages as may be prescribed, to be posted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed; and, as often as the same become defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable despatch.

(6) The Central Government may, by order in writing, rescind, in whole or in part, any bye-law so made, and thereupon such bye-law shall cease to have effect accordingly.

**62. Posting up of extracts from Act, Regulations, etc.**—There shall be kept posted up at or near every mine in English and in such other language or languages as may be prescribed, the prescribed abstracts of the Act and of the regulations and rules.

## CHAPTER IX.

### PENALTIES AND PROCEDURE.

**63. Obstruction.**—(1) Whoever obstructs the Chief Inspector, an Inspector, or any person authorised under section 8 in the discharge of his duties under this Act, or refuses or wilfully neglects to afford the Chief Inspector, Inspector or such person any reasonable facility for making any entry, inspection, examination or inquiry authorised by or under this Act in relation to any mine, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever refuses to produce on the demand of the Chief Inspector or Inspector any registers or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe to be likely to prevent any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to three hundred rupees.

**64. Falsification of records, etc.**—Whoever—

(*a*) counterfeits, or knowingly makes a false statement in, any certificate, or any official copy of a certificate, granted under this Act, or

(*b*) knowingly uses as true any such counterfeit or false certificate, or

(*c*) makes or produces or uses any false declaration, statement or evidence knowing the same to be false, for the purpose of obtaining for himself or for any other person a certificate, or the renewal of a certificate, under this Act, or any employment in a mine, or

(*d*) falsifies any plan or register or record the maintenance of which is required by or under this Act, or

(*e*) makes, gives or delivers any plan, return, notice, or record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**65. Use of false certificates of fitness.**—Whoever knowingly uses or attempts to use as a certificate of fitness granted to himself under section 40 a certificate granted to another person under that section,

or, having been granted a certificate of fitness to himself under that section, knowingly allows it to be used, or allows an attempt to use it to be made by another person, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

**66. Omission to furnish plans, etc.**—Any person who, without reasonable excuse the burden of proving which shall lie upon him, omits to make or furnish in the prescribed form or manner or at or within the prescribed time any plan, return, notice, register, record or report required by or under this Act to be made or furnished shall be punishable with fine which may extend to two hundred rupees.

**67. Contravention of provisions regarding employment of labour.**—Whoever, save as permitted by section 38, contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and, if the contravention is continued after conviction, with a further fine which may extend to seventy-five rupees for each day on which contravention is so continued.

**68. Penalty for double employment of young persons.**—If a child or an adolescent is employed in a mine on any day on which he has already been employed in another mine, his parent or guardian or the person who has the custody of such child or adolescent or who obtains any direct benefit from his wages shall be punishable with fine which may extend to fifty rupees, unless it appears to the Court that the child or adolescent was so employed without the consent or connivance of such parent, guardian or person.

**69. Failure to appoint Manager.**—Whoever in contravention of the provisions of section 17, fails to appoint a manager shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and if the contravention is continued after conviction, with a further fine which may extend to one hundred rupees for each day on which the contravention is so continued.

**70. Notice of accidents.**—(1) Whoever in contravention of the provision of sub-section (1) of section 23 fails to give notice of any accidental occurrence or to post a copy of the notice on the special notice board referred to in that sub-section and to keep it there for the period

specified shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees, or with both.

(2) Whoever in contravention of a direction made by the Central Government under sub-section (3) of section 23 fails to record in the prescribed register or to give notice of any accidental occurrence shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**71. Owner, etc., to report to Chief Inspector in certain cases.**—Where the owner, agent or manager of mine, as the case may be, has taken proceedings under this Act against any person employed in or about a mine in respect of an offence under this Act, he shall within twenty-one days from the date of the judgment or order of the Court report the result thereof to the Chief Inspector.

**72. Obligation of persons employed in a mine.**—No person employed in a mine shall—

(*a*) wilfully interfere with or misuse any appliance, convenience or other thing provided in a mine for the purpose of securing the health, safety or welfare of the persons employed therein ;

(*b*) wilfully and without reasonable cause do anything likely to endanger himself or others ;

(*c*) wilfully neglect to make use of any appliance or other thing provided in the mine for the purpose of securing the health or safety of the persons employed therein.

**73. Disobedience of orders.**—Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder for the contravention of which no penalty is hereinbefore provided shall be punishable with imprisonment fer a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both, and, if the contravention is continued after conviction, with a further fine which may extend to one hundred rupees for each day on which the contravention is so continued.

**74. Contravention of law with dangerous results.**—(1) Notwithstanding anything hereinbefore contained, whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder, shall be punishable,—

(*a*) if such contravention results in loss of life, with imprisonment which may extend to one year, or with fine which may extend to two thousand rupees, or with both ; or

(*b*) if such contravention results in serious bodily injury, with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both; or

(*c*) if such contravention otherwise causes injury or danger to persons employed in the mine or other persons in or about the mine, with imprisonment which may extend to one month or with fine which may extend to five hundred rupees, or with both.

(*2*) Where a person having been convicted under this section is again convicted thereunder he shall be punishable with double the punishment provided by sub-section (1).

(*3*) Any Court imposing, or confirming in appeal, revision or otherwise, a sentence of fine passed under this section may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured, or, in the case of his death to his legal representative:

Provided that if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented before the decision of the appeal.

**75. Prosecution of owner, agent or manager.**—No prosecution shall be instituted against any owner, agent or manager for any offence under this Act except at the instance of the Chief Inspector or of the District Magistrate or of an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector:

Provided that in respect of an offence committed in the course of the technical direction and management of a mine, the District Magistrate shall not institute any prosecution against an owner, agent or manager without the previous approval of the Chief Inspector.

**76. Determination of owner in certain cases.**—Where the owner of a mine is a firm or other association of individuals, any one of the partners or members thereof or where the owner of a mine is a public company, any one of the directors thereof, or where the owner of a mine is a private company, any one of the shareholders thereof, may be prosecuted and punished under this Act for any offence for which the owner of a mine is punishable:

Provided that where a firm, association or company has given notice in writing to the Chief Inspector that it has nominated,—

(*a*) in the case of a firm any of its partners,

(*b*) in the case of an association, any of its members,

(*c*) in the case of a public company, any of its directors, or

(*d*) in the case of a private company, any of its shareholders,

who is resident in each case in any place to which this Act extends to assume the responsibilities of the owner of the mine for purposes of this Act, such partner, member, director or shareholder, as the case may be, shall, so long as he continues to so reside, be deemed to be the owner of the mine for the purposes of this Act, unless notice in writing cancelling his nomination or stating that he has ceased to be a partner, member, director or shareholder; as the case may be, is received by the Chief Inspector.

**77. Exemption of owner, agent or manager from liability in certain cases.**—Wher the owner, agent or manager of a mine, accused of an offence under this Act, alleges that another person is the actual offender, he shall be entitled, upon complaint made by him in this behalf and on giving to the prosecutor not less than three clear days notice in writing of his intention so to do, to have that other person brought before the Court on the date appointed for the hearing of the case; and if, after the commission of the offence has been proved, the owner, agent or manager of the mine, as the case may be, proves to the satisfaction of the Court—

(*a*) that he has used due diligence to enforce the execution of the relevant provisions of this Act, and

(*b*) that the other person committed the offence in question without his knowledge, consent or connivance,

the said other person shall be convicted of the offence and shall be liable to the like punishment as if he were the owner, agent or manager of the mine, and the owner, agent or manager, as the case may be, shall be acquitted:

Provided that—

(*a*) the owner, agent or manager of the mine, as the case may be, may be examined on oath and his evidence and that of any witness whom he calls in support shall be subject to cross-examination by or on behalf of the person he alleges as the actual offender and by the prosecutor;

(*b*) if in spite of due diligence the person alleged as the actual offender cannot be brought before the Court on the date appointed for the hearing of the case, the Court shall adjourn the hearing thereof from time to time so however that the total period of such adjournments does not exceed three

months, and if by the end of the said period the person alleged as the actual offender cannot be brought before the Court, the Court shall proceed to hear the case against the owner, agent or manager, as the case may be.

**78. Power of Court to make orders.**—(*1*) Where the owner, agent or manager of a mine is convicted of an offence punishable under this Act, the Court may in addition to awarding him any punishment, by order in writing, require him within a period specified in the order (which may be extended by the Court from time to time on application made in this behalf) to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

(*2*) Where an order is made under sub-section (*1*), the owner, agent or manager of the mine, as the case may be, shall not be liable under this Act in respect of the continuance of the offence during the period or extended period, if any, but if on the expiry of such period or extended period the order of the Court has not been fully complied with, the owner, agent or manager, as the case may be, shall be deemed to have committed a further offence and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or with both.

**79. Limitation of prosecutions.**—No Court shall take cognizance of any offence under this Act, unless complaint thereof has been made—

(*1*) within six months of the date on which the offence is alleged to have been committed, or

(*2*) within six months of the date on which the alleged commission of the offence came to the knowledge of the Inspector, or

(*3*) in any case where a Court of inquiry has been appointed by the Central Government under section 24, within six months after the date of the publication of the report referred to in sub-section (*4*) of that section,

whichever is later.

**80. Cognizance of offences.**—No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is by this Act made punishable with imprisonment.

**81. Reference to Mining Board or Committee in lieu of prosecution in certain cases.**—(*1*) If the Court trying any case instituted at the instance of the Chief Inspector or of the District Magistrate or of an Inspector under this Act is of opinion that the case is one which should, in lieu of a prosecution, be referred to a Mining Board or a Committee it may stay the criminal proceedings, and report the matter to the Central Government with a view to such reference being made.

(*2*) On receipt of a report under sub-section (*1*), the Central Government may refer the case to a Mining Board or a Committee, or may direct the Court to proceed with the trial.

## CHAPTER X.

### MISCELLANEOUS.

**82. Decision of question whether a mine is under this Act.**—If any question arises as to whether any excavation or working is a mine within the meaning of this Act, the Central Government may decide the question, and a certificate signed by a Secretary to the Central Government shall be conclusive on the point.

**83. Power to exempt from operation of Act.**—The Central Government may, by notification in the official Gazette, exempt either absolutely or subject to any specified conditions any local area or any mine or group or class of mines or any part of a mine or any class of persons from the operation of all or any of the provisions of this Act:

Provided that no local area or mine or group or class of mines shall be exempted from the provisions of section 45 unless it is also exempted from the operation of all the other provisions of this Act.

**84. Power to alter or rescind orders.**—The Central Government may reverse or modify any order passed under this Act.

**85. Application of Act to mines belonging to Government.**—This Act shall apply to mines belonging to the Central or any Provincial Government.

**86. Application of certain provisions of Act LXIII of 1948 to mines.**—The Central Government may, by notification in the official Gazette, direct that the provisions of Chapters III and IV of the Factories Act, 1948 (LXIII of 1948) shall, subject to such exceptions and restrictions as may be specified in the notification, apply to all mines and the precincts thereof.

87. **Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

88. **Repeal of Act IV of 1923.**—The Indian Mines Act, 1923 (IV of 1923) is hereby repealed.

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## STATEMENT OF OBJECTS AND REASONS.

The existing Indian Mines Act which relates to the regulation and inspection of mines was passed in 1923. Although it has since been amended in certain respects, the general framework has remained unchanged. Experience of the working of the Act has revealed a number of defects and deficiencies which hamper effective administration. Some of these necessitate new forms of control while others require the tightening up of the existing legal provisions. It has, therefore, been considered necessary to thoroughly overhaul the existing Act.

2. The proposed legislation differs from the existing law in certain respects. The more important features are mentioned below :—

(*i*) At present workshops run by a mine for the maintenance of its machinery and plant in safe and efficient working order are subject to the Factories Act, 1948, which is administered by Provincial Governments. Workers in workshops such as fitters, blacksmiths, welders, electricians and others frequently work for a part of the shift underground and while so employed come within the scope of the Mines Act. It is inconvenient that the same personnel should be subject to two different Acts administered by two different authorities. It is now proposed to bring all personnel engaged solely on work relating to mines within the scope of the Mines Act. For similar reasons it is proposed to bring within the scope of the Mines Act power stations which generate power used wholly in connection with the mine concerned.

(*ii*) Provision has been made in the Bill for the issue of certificates of fitness to adolescents and the appointment of certifying surgeons.

(*iii*) The provisions in the existing Act regarding conservancy and sanitary conveniences are of a general nature. The Bill provides for more definite arrangements for drinking water, latrines, urinals, etc.

(*iv*) It has been made obligatory on the part of the owner, agent or manager of a mine to report the contraction of any of certain notified diseases. Provision for the holding of an enquiry regarding the causes of contraction of a reported disease has also been made.

(*v*) It has also been laid down that first-aid appliances should be made available underground and that they should be kept in charge of qualified personnel.

(*vi*) A new chapter regarding the grant of compensatory holidays and holidays with pay has been included.

(*vii*) The existing Act does not specify the rate of payment for overtime work. In the Bill the rates for overtime has been fixed at 1½ times the ordinary rate of wages in the case of surface workers and at twice the ordinary rate for underground workers. The working hours for all workers, both surface and underground, have been reduced to 48 per week and no worker is to be allowed to work for more than 9 hours a day above ground and 8 hours a day below ground. The provisions in the existing Act permit workers on the surface to work for 54 hours a week or 10 hours a day and workers underground for 9 hours a day.

(*viii*) It is proposed to prohibit after a certain date to be notified by the Central Government the presence of children in any part of a mine where operations connected with, or incidental to, mining processes are being carried on. The intention is that the presence of children at mines should be prohibited as soon as arrangements for the provision of elementary education can be made in collieries.

(*ix*) The age limit of persons employed underground has been raised from 17 to 18 years.

(*x*) At present the penalty for violation of the provisions of the Act is only fine. It is proposed to provide that the punishment may be imprisonment or fine or both. This will bring the penalty provisions in line with the penalties prescribed in the Factories Act, 1948.

(*xi*) The employment of women underground is already prohibited. This prohibition will be continued. The employment of women on the surface between the hours of 7 P.M. and 6 A.M. will also be prohibited, but Provincial Governments will be empowered to relax these limits but not so as to authorise working between the hours of 10 P.M. and 5 A.M.

(*xii*) Opportunity has also been taken to include in the Bill provisions relating to health, safety and comfort of workers somewhat on the lines of the Factories Act, 1948.

3. It is hoped that when the Bill is passed into law, the provisions regulating labour and safety in mines will largely be on the lines of those contained in the Factories Act, 1948.

NEW DELHI;
*The 22nd November*, 1949.

JAGJIVAN RAM.

## A. BILL* No. 63 OF 1949.

*A Bill to provide for the administration of evacuee property and for certain matters connected therewith.*

WHEREAS it is expedient to provide for the administration of evacuee property and for certain matters connected therewith;

It is hereby enacted as follows:—

## CHAPTER I.

### PRELIMINARY.

**1. Short title and extent.**—(1) This Act may be called the Administration of Evacuee Property Act, 1949.

(2) It extends to all the Provinces of India (except Assam and West Bengal), and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.

**2. Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "allotment" means the grant by the Custodian, or any other person duly authorised by the Custodian in this behalf, of a temporary right of use and occupation of any immoveable property of an evacuee to any person otherwise than by way of lease;

* In pursuance of sub-section (3) of section 299 of the Government of India Act, 1935, the Governor-General has given his previous sanction to the introduction of the Bill in the Constituent Assembly of India (Legislative).

(*b*) "Custodian-General" means the Custodian-General of Evacuee Property in India appointed by the Central Government under section 5;

(*c*) "Custodian" means the Custodian for the Province, and includes any Additional, Deputy or Assistant Custodian of evacuee property appointed for that Province;

(*d*) "evacuee" means any person,—

(*i*) who, on account of the setting up of the Dominions of India and Pakistan or on account of civil disturbances or the fear of such disturbances, leaves or has, on or after the 1st day of March, 1947, left, any place in a Province for any place outside the territories now forming part of India, or

(*ii*) who is resident in any place now forming part of Pakistan and who for that reason is unable to occupy, supervise or manage in person his property in any part of the territories to which this Act extends, or whose property in any part of the said territories has ceased to be occupied, supervised or managed by any person or is being occupied, supervised or managed by an unauthorised person, or

(*iii*) who has, after the 14th day of August, 1947, acquired by way of allotment or by means of unlawful occupation or other illegal means any right to, interest in or benefit from any property which is treated as evacuee or abandoned property under any law for the time being in force in Pakistan;

(*e*) "intending evacuee" means any person who, after the 14th day of August, 1947,—

(*i*) has transferred to Pakistan his assets or any part thereof situated in any part of the territories to which this Act extends:

Provided that the transfer to Pakistan of any reasonable sum of money, for the purpose of financing any transaction in the ordinary course of his trade or for the maintenance of any member of the family of such person shall not be deemed to be a transfer of assets within the meaning of this sub-clause; or

(*ii*) has acquired, if the acquisition has been made in person, in any mode other than any of the modes specified in sub-clause (*iii*) of clause (*d*) of section 2, or, if the acquisition has been made by or through a member of his family, in any mode whatsoever, any right to, interest in or benefit

from any property which is treated as evacuee or abandoned property under any law for the time being in force in Pakistan, or

(*iii*) has, by the execution of any document of transfer in writing, whether registered or not, or by means of any other document in writing, sought to effect an exchange of the whole or any part of his property situated in any part of the territories to which this Act extends, with any property situated in Pakistan;

(*f*) "evacuee property" means any property in which an evacuee has any right or interest (whether personally or as a trustee or as a beneficiary or in any other capacity), and includes any property—

(*1*) which has been obtained by any person from an evacuee after the 14th day of August, 1947, by any mode of transfer, unless such transfer has been confirmed by the Custodian, or

(*2*) belonging to any person who, after the 18th day of October, 1949 has done or does any of the acts specified in clause (*e*) of section 2, or in which any such person has any right or interest, to the extent of such right or interest,

but does not include—

(*i*) any ornament and any wearing apparel, cooking vessels or other household effects in the immediate possession of an evacuee;

(*ii*) any property belonging to a joint-stock company, the registered office of which was situated before the 15th day of August, 1947, in any place now forming part of Pakistan and continues to be so situated after the said date;

(*g*) "member of the family" means any member of the family of an intending evacuee who is wholly dependent upon the earnings of such evacuee for the provision of the ordinary necessaries of life or who shares with such evacuee in the ordinary expenses of the household to which they jointly belong or who owns property or carries on business jointly with such evacuee;

(*h*) "prescribed" means prescribed by rules made under this Act;

(*i*) "property" means property of any kind, and includes any right or interest in such property, but does not include a mere right to sue or a cash deposit in a bank;

(*j*) "unauthorised person" means any person (whether duly empowered in this behalf by the evacuee or otherwise) who, after the 14th day of August, 1947, has been occupying, supervising or managing the property of an evacuee without the approval of the Custodian.

**3. Rule of construction in applying Act to Acceding States.**—In the application of this Act to any Acceding State, unless there is anything repugnant in the subject or context,—

(*a*) references to the Provinces shall be construed as references to that Acceding State;

(*b*) references to any Provincial Government shall be construed as references to the Government of that Acceding State;

(*c*) references to the official Gazette shall be considered as references to the appropriate official publication of that Acceding State; and

(*d*) references to any enactment in force in the Provinces of India but not in force in that Acceding State shall be construed as references to the corresponding law in force in that State.

**4. Act to override other laws.**—The provisions of this Act and of the rules and orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.

## CHAPTER II.

### EVACUEE PROPERTY AND VESTING THEREOF IN THE CUSTODIAN.

**5. Appointment of Custodian-General.**—The Central Government may, by notification in the official Gazette, appoint a person to be the Custodian-General of Evacuee Property in India for the purpose of discharging the duties imposed on the Custodian-General by or under this Act.

**6. Appointment of Custodians, etc.**—(1) The Provincial Government may, by notification in the official Gazette, appoint for the Province a Custodian, and as many Additional Deputy or Assistant Custodians of evacuee property as may be necessary for the purpose of discharging the duties imposed on the Custodian by or under this Act.

(2) Subject to the provisions of this Act all Custodians, Additional, Deputy or Assistant Custodians of evacuee property shall discharge the duties imposed on them by or under this Act under the general superintendence and control of the Custodian-General.

(3) Subject to the provisions of sub-section (2), Additional, Deputy and Assistant Custodians shall discharge the duties imposed on them by or under this Act under the general superintendence and control of the Custodian for the Province, but the Provincial Government may, by general or special order, provide for the distribution of work among them.

**7. Notification of evacuee property.**—(1) Where the custodian is of opinion that any property is evacuee property within the meaning of this Act, he may, after causing notice thereof to be given in such manner as may be prescribed to the persons interested, and after holding such inquiry into the matter as the circumstances of the case permit, pass an order declaring any such property to be evacuee property.

(2) Where a notice has been issued under sub-section (1) in respect of any property, such property shall, pending the determination of the question whether it is evacuee property or otherwise, be incapable of being transferred or charged in any way, except with the leave of the Custodian, and no person shall be capable of taking any benefit from such transfer or charge except with such leave.

(3) The Custodian shall, from time to time, notify, either by publication in the official Gazette or in such other manner as may be prescribed, all properties declared by him to be evacuee propertie under sub-section (1).

**8. Vesting of evacuee property in the Custodian.**—(1) Any property declared to be evacuee property under section 7 shall vest in the Custodian.

(2) Where immediately before the commencement of this Act any evacuee property in a Province had vested in any person exercising the powers of a Custodian under any law then in force, the evacuee property shall, on the commencement of this Act, be deemed to have vested in the Custodian appointed or deemed to have been appointed for the Province under this Act, and shall continue so to vest.

(3) Where any property in a Province belonging to a joint stock company had vested in any person exercising the powers of a Custodian under any law previously in force, then nothing contained in clause (*f*) of section 2 shall affect the operation of sub-section (2),

but the Provincial Government may, by notification in the official Gazette, direct that the Custodian shall be divested of any such property in such manner and after such period as may be specified in the notification.

(4) Where after any evacuee property has vested in the Custodian any person is in possession thereof, he shall be deemed to be holding it on behalf of the Custodian and shall on demand surrender possession of it to the Custodian or to any other person duly authorised by him in this behalf.

**9. Power of Custodian to take possession of evacuee property vested in him.**—If any person in possession of any evacuee property refuses or fails on demand to surrender possession thereof to the Custodian or to any person duly authorised by him in this behalf, the Custodian may use or cause to be used such force as may be necessary for taking possession of such property and may, for this purpose, after giving reasonable warning and facility to any woman not appearing in public to withdraw, remove or break open any lock, bolt or any door or do any other act necessary for the said purpose.

**10. Powers and duties of the Custodian generally.**—(1) Subject to the provisions of any rules that may be made in this behalf, the Custodian may take such measures as he considers necessary or expedient for the purposes of securing, administering, preserving and managing any evacuee property which has vested in him and may, for any such purpose as aforesaid, do all acts and incur all expenses necessary or incidental thereto.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Custodian may, for any of the purposes aforesaid,—

(a) carry on the business of the evacuee;

(b) appoint a manager for the property of the evacuee or for carrying on any business or undertaking of the evacuee and authorise the manager to exercise any of the powers of the Custodian under this section;

(c) enter, or authorise any other person to enter, any land or premises to inspect any evacuee property;

(d) take all such measures as may be necessary to keep any evacuee property in good repair;

(e) complete any building which has vested in him and which requires to be completed;

(*f*) require any person, notwithstanding anything to the contrary contained in any other law for the time being in force relating to the disclosure of any information by a public servant or any other person, to furnish such returns, accounts or other information in relation to any property and to produce such documents in his possession as the Custodian considers necessary for the discharge of his duties under this Act;

(*g*) require any banking company to furnish such information as the Custodian may require with respect to any remittance made by any person to any place outside India after the 14th day of August, 1947;

(*h*) search, or authorise any other person to search, any building or place in which the Custodian has reason to believe that any evacuee property or any document tending to show that any person is an evacuee or that any property is evacuee property is being kept or concealed and take possession thereof;

(*i*) take such action as may be necessary for the recovery of any debt due to the evacuee;

(*j*) institute, defend or continue any legal proceeding in any civil or revenue Court on behalf of the evacuee or refer any dispute between the evacuee and any other person to arbitration or compromise any claims, debts or liabilities on behalf of the evacuee;

(*k*) raise on the security of the evacuee property such loans as may be necessary;

(*l*) in any case where the evacuee property which has vested in the Custodian consists of a share or shares in a company, exercise, notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913) or in the articles of association of the company, the same rights in the matter of making a requisition for the convening of a meeting or of presenting a petition to the Court under the provisions of the Indian Companies Act, 1913, or the articles of association of the company or in any other matter as the evacuee shareholder himself could have done had he been present, although the name of the Custodian does not appear in the register of members of the company;

(*m*) incur any expenditure, including the payment of taxes, duties, cesses and rates to Government or to any local authority or

of any amounts due to any employee of the evacuee or of any debt due by the evacuee to any person;

(*n*) pay to the evacuee, or to any member of his family or to any other person as in the opinion of the Custodian is entitled thereto, any sums of money out of the funds in his possession;

(*o*) transfer in any manner whatsoever any evacuee property, notwithstanding anything to the contrary contained in any law or agreement relating thereto:

Provided that the Custodian shall not sell any immovable property or any business or other undertaking of the evacuee, except with the previous approval of the Custodian-General;

(*p*) invest any money held by him in any of the securities approved by the Central Government or in the prescribed manner;

(*q*) delegate, by general or special order, all or any of his functions under this Act to such officers or persons as he thinks fit:

Provided that the Custodian shall not delegate any of his functions under clause (*g*) or clause (*h*) to any officer or person below the rank of a Deputy Custodian.

**11. Special provisions with respect to certain trust properties.**—(*1*) Where any evacuee property which has vested in the Custodian is property in trust for a public purpose of a religious or charitable nature, the property shall remain vested in the Custodian only until such time as fresh trustees are appointed in the manner provided by law, and pending the appointment of fresh trustees the trust property and the income thereof shall be applied by the Custodian for fulfilling, as far as possible, the purpose of the trust.

(*2*) In respect of any *Wakf-alal-aulad*,—

(*a*) where the mutawalli is an evacuee, the property forming the subject-matter of the *wakf* shall vest in the Custodian subject to the rights of the beneficiaries under the *wakf*, if any, who are not evacuees;

(*b*) where not all the beneficiaries are evacuees, the rights and interests of such of the beneficiaries as are evacuees shall alone vest in the Custodian.

**12. Power to vary or cancel leases or allotments of evacuee property.**—(*1*) Notwithstanding anything contained in any other law for the time being in force, the Custodian may cancel any allotment or terminate any lease or amend the terms of any lease or agreement

under which any evacuee property is held or occupied by any person, whether such allotment, lease or agreement was granted or entered into before or after the commencement of this Act.

(*2*) Where by reason of any action taken under sub-section (*1*), any person has ceased to be entitled to possession of any evacuee property, he shall on demand by the Custodian surrender possession of such property to the Custodian or to any person duly authorised by him in this behalf.

(*3*) If any person fails to surrender possession of any property on demand under sub-section (*2*), the Custodian may, notwithstanding anything to the contrary contained in any other law for the time being in force, eject such person and take possession of such property in the manner provided in section 9.

**13. Payments to Custodian to be valid discharge.**—(*1*) Any amount due to any evacuee in respect of any property which has vested in the Custodian or in respect of any transaction entered into by the evacuee, shall be paid to the Custodian by the person liable to pay the same.

(*2*) Any payment made otherwise than in accordance with sub-section (*1*) shall not discharge the person paying it from his obligation to pay the amount due, and shall not affect the right of the Custodian to enforce such obligation against any such person.

**14. Recouping of expenditure by Custodian.**—Any expenditure incurred by the Custodian in the exercise of any power conferred by or under this Act shall, in relation to any evacuee property in respect of which it has been incurred, be a charge on such property and shall, subject to the provisions of section 48, have priority over all other charges on the property, and such expenditure may be met or recouped by the Custodian out of the income accruing from such property or the sale proceeds thereof.

**15. Maintenance of accounts by Custodian.**—(*1*) The Custodian shall maintain a separate account of the property of each evacuee possession whereof has been taken by him, and shall cause to be made therein entries of all receipts and expenditure in respect thereof.

(*2*) The accounts shall be maintained in such form and in such manner as may be prescribed.

(*3*) The Provincial Government shall cause the accounts maintained under this section to be inspected and audited at such intervals and by such persons as may be prescribed.

**16. Restoration of property.**—(*1*) The Custodian may, on application made to him in this behalf in writing by an evacuee or any person claiming to be the heir of an evacuee, restore, subject to such terms and conditions as he may think fit to impose, the evacuee property to which the evacuee or other person would have been entitled if this Act were not in force:

Provided that the applicant produces in support of his application a certificate from the Central Government, or from any person authorised by it in this behalf, to the effect that the evacuee property may be so restored if the applicant is otherwise entitled thereto.

(*2*) On receipt of an application under sub-section (*1*), the Custodian shall cause public notice thereof to be given in the prescribed manner and, after holding a summary inquiry into the claim in such manner as may be prescribed, may—

(*a*) make a formal order declaring that the property shall be restored to the applicant; or

(*b*) reject the application; or

(*c*) refer the applicant to a civil Court for the determination of his claim and title to the property:

Provided that no order for restoration shall be made under this section, unless provision has been made in the prescribed manner for the recovery of any amount due to the Custodian in respect of the property or the management thereof.

(*3*) Upon the restoration of the property to the evacuee or to the heir, as the case may be, the Custodian shall stand absolved of all responsibilities in respect of the property so restored, but such restoration shall not prejudice the rights, if any, in respect of the property which any other person may be entitled to enforce against the person to whom the property has been so restored:

Provided that every lease granted in respect of the property by or on behalf of the Custodian shall have effect against the person to whom restoration is made until such lease is determined by lapse of time or by operation of law.

(*4*) The Custodian shall, on demand, furnish to the evacuee or to the heir, as the case may be, a statement containing an abstract of the account of the income received and expenditure incurred in respect of the property.

## CHAPTER III.

### CERTAIN CONSEQUENCES OF PROPERTY VESTING IN CUSTODIAN.

**17. Exemption from attachment, sale, etc.**—(*1*) Save as otherwise expressly provided in this Act, no property which has vested in the Custodian shall be liable to attachment, distress or sale in execution of an order of a Court or of any other authority, and no injunction in respect of any such property shall be granted by any Court or other authority.

(*2*) Save as otherwise expressly provided in this Act, any attachment or injunction subsisting on the commencement of this Act in respect of any evacuee property which has vested in the Custodian shall cease to have effect on such commencement, and any transfer of evacuee property under orders of a Court or any other authority made after the 14th day of August, 1947, shall be set aside, if an application is made to such Court or authority by or at the instance of the Custodian within three months from the commencement of this Act.

**18. Occupancy or tenancy right not to be extinguished.**—Nothing contained in any other law for the time being in force shall be deemed to extinguish the right of occupancy in any land of an evacuee which has vested in the Custodian and, notwithstanding anything contained in any such law, neither the evacuee nor the Custodian, whether as an occupancy tenant or as a tenant for a fixed term of any land, shall be liable to be ejected or deemed to have become so liable on any ground whatsoever for any default of the Custodian.

## CHAPTER IV.

### PROPERTY OF INTENDING EVACUEES.

**19. Declaration of person as intending evacuee.**—(*1*) Where the Custodian has reason to believe that a person is an intending evacuee, he may, by notice served in the prescribed manner, call upon such person to show cause why he should not be declared an intending evacuee, and shall, after holding such inquiry into the matter as the circumstances thereof permit, and after taking such evidence as may be produced by or on behalf of the person showing cause, pass an order (stating the reasons therefor) either declaring such person to be an intending evacuee or closing the case.

(2) Any declaration made under sub-section (1) shall be published in the official Gazette.

(3) The Custodian may, pending determination of the question whether any person is an intending evacuee or otherwise, attach in the prescribed manner any property in the Province in which such person has a right or interest, and during the pendency of such attachment, the property shall be incapable of being transferred or charged in any way, except with the leave of the Custodian, and no person shall be capable of taking any benefit from such transfer or charge except with such leave.

**20. Consequences of declaration that a person is an intending evacuee.**—No person, in respect of whom a declaration has been made under section 19 that he is an intending evacuee, shall transfer in any manner whatsoever any immovable property, in which he has any right or interest, situated in any part of the territories to which this Act extends, except with the previous approval of the Custodian, and any transfer made in contravention of the provisions of this section shall be void and of no effect.

**21. Powers of Custodian generally in respect of property of intending evacuees.**—For the purposes of preserving any property in which any person in respect of whom a declaration has been made under section 19 that he is an intending evacuee has any right or interest, the Custodian may,—

(a) by order in writing, require any such person to furnish such returns, accounts or other information in relation to any such property and to produce such documents in his possession as the Custodian may require;

(b) inspect the books of account or other documents maintained by or in the possession of such person;

(c) pass such orders or direct such action to be taken in relation to any such property as may be considered by him to be necessary;

(d) by order in writing, prohibit the transfer to Pakistan of any sum of money belonging to any such person or permit such transfer subject to such conditions and restrictions as the Custodian may think fit to impose.

**22. Effect of intending evacuee contravening any provision of this Chapter.**—If any person, in respect of whom a declaration has been made under section 19 that he is an intending evacuee, makes any transfer of any property in contravention of section 20 or fails to comply with

any order made under clause (*c*) or clause (*d*) of section 21, the Custodian may, by notification in the official Gazette, declare any property situated in the Province in which any such person has any right or interest to be evacuee property, and on the issue of such notification any property specified in the notification shall be deemed to be evacuee property which has vested in the Custodian within the meaning of this Act.

**23. Intending evacuee acquiring evacuee or abandoned property in Pakistan for inadequate consideration to make good the deficiency.**—(*1*) Where any person in respect of whom a declaration has been mada under section 19 that he is an intending evacuee has either personally or through any member of his family acquired, whether before or after the commencement of this Act, any right to, interest in, or benefit from any property which is treated as evacuee or abandoned property under any law for the time being in force in Pakistan for a consideration which, in the opinion of the Custodian is neither reasonable nor adequate, the Custodian may, after notice to such person and after affording him a reasonable opportunity of being heard and after holding such inquiry as the circumstances of the case permit, determine, by order in writing, the amount, if any, by which the consideration, in his opinion, falls short of the real value of the property so acquired, and require such person to pay the amount to the Custodian within such time as may be specified in the order.

(*2*) If the amount is not paid within the time specified, or within such further time as the Custodian may allow, the Custodian may take possession of so much of the property of such intending evacuee as would be sufficient to cover the amount in the case of movable property, or as would afford a reasonable security for the recovery of the amount in the case of immovable property.

(*3*) The Custodian may, for the purpose of realising any amount payable by such intending evacuee under the provisions of this section, transfer in any manner whatsoever any immovable property which has been taken possession of by him under sub-section (*2*).

## CHAPTER V.

### APPEALS, REVIEW AND REVISION.

**24. Appeals from orders under sections 7, 16, 19 and 38.**—(*1*) Any person aggrieved by an order made under section 7, section 16, section 19 or section 38 may prefer an appeal in such manner and within such time as may be prescribed,—

(*a*) to the Custodian, where the original order has been passed by a Deputy or Assistant Custodian;

(*b*) to the Custodian-General, where the original order has been passed by the Custodian, and Additional Custodian or an Authorised Deputy Custodian:

Provided that where the appeal is preferred on the ground that the person aggrieved is not an evacuee within the meaning of sub-clause (*iii*) of clause (*d*) of section 2, or that the property is not evacuee property within the meaning of sub-clause (*2*) of clause (*f*) of section 2, the appeal shall be preferred in the manner prescribed in section 25.

(*2*) The Custodian to whom an appeal is preferred under clause (*a*) of sub-section (*1*) may dispose of it himself or may make it over for disposal to an Additional Custodian or to a Deputy Custodian authorised by the Custodian in writing in this behalf (in this Chapter referred to as the Authorised Deputy Custodian):

Provided that no appeal from an order of a Deputy Custodian shall be made over for disposal to the Authorised Deputy Custodian.

**25. Appeals from other orders.**—(*1*) Any person aggrieved by an order,—

(*a*) under section 7 notifying his property as evacuee property on the ground that he is an evacuee within the meaning of sub-clause (*iii*) of clause (*d*) of section 2, or that the property is evacuee property within the meaning of sub-clause (2) of clause (*f*) of section 2, or

(*b*) under section 22 declaring any property of an intending evacuee to be evacuee property,

may prefer an appeal, in such manner and within such time as may be prescribed, to the District Judge nominated in this behalf by the Provincial Government.

(*2*) For the purpose of hearing any appeal under sub-section (*1*) the Provincial Government shall nominate one or more District Judges and define the local limits of their jurisdiction.

**26. Powers of review or revision of Custodian, etc.**—(*1*) The Custodian, Additional Custodian or Authorised Deputy Custodian may at any time, either on his own motion or on application made to him in this behalf, call for the record of any proceeding under this Act which is pending before, or has been disposed of by, an officer subordinate to him for the purpose of satisfying himself as to the legality

or propriety of any orders passed in the said proceeding, and may pass such order in relation thereto as he thinks fit:

Provided that the Custodian, Additional Custodian or Authorised Deputy Custodian shall not pass an order under this sub-section revising or modifying any order prejudicial to any person without giving such person a reasonable opportunity of being heard:

Provided further that if one of the officers aforesaid takes action under this sub-section, it shall not be competent for any other officer to do so.

(2) The Custodian, Additional Custodian or Authorised Deputy Custodian (but not a Deputy or an Assistant Custodian) may, after giving notice to the parties concerned, review his own order.

**27. Powers of revision of Custodian-General.**—(*1*) The Custodian-General may at any time, either on his own motion or on application made to him in this behalf, call for the record of any proceeding in which any District Judge or Custodian has passed an order in appeal under the provisions of this Chapter for the purpose of satisfying himself as to the legality or propriety of any such order and may pass such order in relation thereto as he thinks fit:

Provided that the Custodian-General shall not pass an order under this sub-section prejudicial to any person without giving him a reasonable opportunity of being heard.

(*2*) Notwithstanding anything contained in sub-section (*1*), where in respect of any proceeding called for under sub-section (*1*), the Custodian-General is of opinion that the District Judge is in error in holding any person not to be an evacuee or any property not to be evacuee property, he shall not pass any order in relation thereto but shall refer the matter, with his own opinion thereon, to the High Court to which the District Judge is otherwise subordinate.

(*3*) Any reference made under sub-section (*2*) shall be heard by a Bench of the High Court consisting of not less than two Judges and the Custodian-General shall dispose of the proceeding in accordance with the decision of the High Court.

**28. Finality of orders under this Chapter.**—Save as otherwise expressly provided in this Chapter, every order made by the Custodian-General, District Judge, Custodian, Additional Custodian, Authorised Deputy Custodian, Deputy Custodian or Assistant Custodian shall be final and shall not be called in question in any Court by way of appeal or revision or in any original suit, application or execution proceeding.

## CHAPTER VI.

### PENALTIES AND PROCEDURE.

**29. Penalty for failure to surrender possession of evacuee property.**—Any person who fails to comply with a notice or demand by or on behalf of the Custodian under the provisions of this Act to surrender possession of any evacuee property shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

**30. Penalty for concealing evacuee property.**—Any person who wilfully conceals any property which he knows or has reason to believe to be evacuee property shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

**31. Penalty for causing damage to evacuee property.**—Any person who wilfully destroys or causes damage to any evacuee property or unlawfully converts it to his own use shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

**32. Penalty for false declaration in certain cases.**—Any person who—

(*i*) for the purpose of obtaining an allotment or lease of any evacuee property, makes a declaration or statement which is false or which he either knows or has reason to believe to be false, or does not believe to be true, or

(*ii*) furnishes any return, account of information which is material to any of the purposes of this Act and which is false or which he either knows or has reason to believe to be false or does not believe to be true,

shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

**33. Penalty for offences not expressly provided for.**—Whoever contravenes any provision of this Act or of any rule or order made thereunder, or obstructs the lawful exercise of any power conferred by or under this Act shall, if no express provision is made by this Act for the punishment of such contravention or obstruction, be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

**34. Penalty for abetment.**—Whoever abets any of the offences punishable under this Act shall be punishable with the punishment provided for the offence.

**35. Offences to be cognizable.**—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), all offences under this Act shall be cognizable.

**36. Procedure for prosecution.**—No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Provincial Government or of any officer authorised in this behalf, by general or special order, by the Provincial Government.

**37. Offences may be tried summarily.**—Any Magistrate empowered to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898 (Act V of 1898), may, if an application is made in this behalf by the complainant and the Magistrate thinks fit, try any offence under this Act in accordance with the provisions contained in sections 262 to 265 of that Code, but nothing contained in sub-section (2) of section 262 of that Code shall apply to any such trial.

## CHAPTER VII.

### MISCELLANEOUS.

**38. Restriction on transfer by evacuees.**—(*1*) No transfer of any right or interest in any property made in any manner whatsoever after the 14th day of August, 1947, by or on behalf of an evacuee or by or on behalf of a person who has become an evacuee after the date of the transfer, shall be effective so as to confer any rights or remedies on the parties to such transfer or on any person claiming under them unless it is confirmed by the Custodian.

(*2*) An application for confirmation of such transfer may be made by the transferor or the transferee or any person claiming under, or lawfully authorised by, either of them to the Custodian within two months from the date of transfer or within two months from the commencement of this Act, whichever is later.

(*3*) The provisions of section 5 of the Indian Limitation Act, 1908 (IX of 1908) shall apply to an application under sub-section (2).

(*4*) The Custodian shall hold an inquiry into the application in the prescribed manner and may reject the application, if he is of opinion that—

(*a*) the transaction has not been entered into in good faith or for valuable consideration, or

(*b*) the transaction is prohibited under any law for the time being in force, or

(*c*) the transaction ought not to be confirmed for any other reason.

(*5*) If the application is not rejected under sub-section (4), the Custodian may confirm the transfer either unconditionally or subject to such terms and conditions as he thinks fit to impose.

**39. Prohibition of registration of documents in certain cases.**—(*1*) Where any document required to be registered under the Indian Registration Act, 1908 (XVI of 1908), purports to transfer any right or interest in any property in contravention of the provisions contained in section 20 or section 38, no registering officer shall register any such document and no revenue officer shall sanction any mutation of names in respect thereof, unless the party presenting the document for registration produces a certificate from the Custodian declaring that the property is not property belonging to an intending evacuee or that it is not evacuee property or that the transaction has been confirmed or that the Custodian has given his previous approval to the transfer.

(*2*) Save as otherwise expressly provided herein, nothing contained in sub section (*1*) shall be deemed to affect the provisions contained in the Payment of Taxes (Transfer of Property) Act, 1949 (XXII of 1949), or in any other law for the time being in force relating to the registration of documents.

**40. Custodian's right to take possession not affected by death of evacuee, etc.**—Where in pursuance of the provisions of this Ordinance, the Custodian has taken possession of any evacuee property, such possession shall not be deemed to be wrongful, nor shall anything done in consequence thereof be deemed to be invalid or affected by reason only that at the material time the evacuee who had a right or interest in the property had died or had ceased to be an evacuee.

**41. Certain officers to be public servants.**—The Custodian-General, the Custodian and every other person duly appointed to discharge any duties imposed on them by this Act or the rules or orders made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

**42. Powers of the Custodian while holding inquiry.**—For the purposes of holding any inquiry under this Act, the Custodian shall have the same powers as are vested in a civil Court under the Code of Civil

Procedure, 1908 (Act V of 1908), when trying a suit, in respect of the following matters, namely :—

(*a*) enforcing the attendance of any person and examining him on oath ;

(*b*) compelling the discovery and production of documents ;

(*c*) any prescribed matter ;

and the inquiry by the Custodian shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860), and the Custodian shall be deemed to be a Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

**43. Jurisdiction of civil Courts barred in certain matters.**—Save as otherwise expressly provided in this Act, no civil Court shall have jurisdiction—

(*a*) to entertain or adjudicate upon any question whether any property is or is not evacuee property or whether an evacuee has or has not any right or interest in any evacuee property ; or

(*b*) to entertain or adjudicate upon any question whether any person is or is not an intending evacuee ; or

(*c*) to question the legality of any action taken by the Custodian-General or the Custodian under this Act ; or

(*d*) in respect of any matter which the Custodian-General or the Custodian is empowered by or under this Act to determine.

**44. Protection of action taken in good faith.**—(*1*) No suit, prosecution or other legal proceeding shall lie against the Custodian-General or the Custodian or any person acting under the direction of the Custodian in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

(*2*) No suit or other legal proceeding shall lie against the Central Government, the Provincial Government, the Custodian-General or the Custodian or any other person in respect of any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

**45. Recovery of arrears.**—Any sum due to the Provincial Government or to the Custodian under the provisions of this Act may be recovered as if it were an arrear of land revenue.

**46. Record to be public documents.**—All records prepared or registers maintained under this Act shall be deemed to be public documents within the meaning of the Indian Evidence Act, 1872 (I of 1872), and shall be presumed to be genuine until the contrary is proved.

**47. Notice of suits to the Custodian.**—(*1*) If in any suit it appears to the civil or revenue Court that a question relating to the property of an evacuee or an intending evacuee is involved, the Court shall not proceed to determine that question until after notice has been given to the Custodian.

(*2*) A Court may, at any stage of a suit or proceeding, either on its own motion or on application made in this behalf by the Custodian, make an order that the Custodian shall be added as a party to the suit or proceeding, if the Court is satisfied that such addition is necessary or proper for the satisfactory determination of the suit or proceeding.

**48. Fees payable to the Custodian.**—(*1*) The Provincial Government may fix the fees payable to the Custodian for the management or disposal of any property vested in him.

(*2*) Such fees shall be payable out of the income or sale proceeds of such property and shall be a first charge on the property.

**49. Power to exempt.**—The Central Government may, by notification in the official Gazette, exempt any person or class of persons or any property or class of property from the operation of all or any of the provisions of this Act.

**50. Power to give directions.**—The Central Government may give directions to any Provincial Government as to the carrying into execution in the Province of any of the provisions contained in this Act or of any rules or orders made thereunder.

**51. Power of Central Government to take action with regard to evacuee property.**—The Central Government may, for the purpose of regulating the administration of any property which has vested in the Custodian under the provisions of this Act, pass such order or direct such action to be taken in relation thereto as, in its opinion, the circumstances of the case require and as is not inconsistent with any of the provisions contained in this Act.

**52. Delegation of powers.**—(*1*) The Central Government may direct that any power exercisable by it under this Act shall be exercisable also by such officer or authority subordinate to the Central

Government or by the Provincial Government or by such officer or authority subordinate to the Provincial Government as may be specified in the direction.

(2) The Provincial Government may, by general or special order, direct that any power exercisable by it under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised by an officer subordinate to the Provincial Government.

(3) Subject to the provisions of this Act and the rules and orders made thereunder, the Custodian may delegate all or any of his powers under this Act to any Additional, Deputy or Assistant Custodian, subject to such conditions, if any, as may be specified by the Custodian.

**53. Power to make rules.**—(1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the terms and conditions of service of the Custodian-General and other officers appointed by him in the discharge of his duties ;

(b) the manner in which inquiries under this Act may be held ;

(c) the manner in which evacuee properties which have vested in the Custodian may be notified ;

(d) the manner in which possession of any evacuee property may be taken by the Custodian ;

(e) the manner in which any attachment may be made by the Custodian ;

(f) the manner in which trust properties which have vested in the Custodian may be administered or otherwise dealt with ;

(g) the circumstances in which, and the conditions subject to which, the Custodian may sell any immovable property vested in him, and the procedure governing the grant of leases and the period for which leases may be granted ;

(h) the circumstances in which leases and allotments may be cancelled or terminated or the terms of any lease or agreement varied ;

(*i*) the securities in which the Custodian may invest any moneys held by him;

(*j*) the manner in which any moneys due to the Custodian may be recovered;

(*k*) the form and manner in which books of accounts and other records shall be maintained by the Custodian;

(*l*) the form in which any notice under this Act may be issued, the manner of its service and publication and the form in which any demand may be made by the Custodian;

(*m*) the nature of cases and the circumstances in which and the conditions subject to which certificates for restoration of property under section 16 may be issued;

(*n*) the nature of cases and the circumstances in which the Custodian may refer an applicant under section 16 to a civil Court;

(*o*) the powers vested in a civil Court which may be exercised by the Custodian while holding any inquiry under this Act;

(*p*) the nature of cases and the circumstances in which the Custodian may confirm or refuse to confirm a transfer under section 38;

(*q*) the form and manner in which and the time within which appeals and applications for revision may be preferred under Chapter V and the fees payable in respect thereof;

(*r*) any other matter which has to be or may be prescribed under this Act.

(*3*) The Provincial Government may, by notification in the official Gazette, make rules providing for all or any of the following matters, namely:—

(*a*) the terms and conditions of service of the Custodian and other officers appointed under this Act and for the furnishing of security by them;

(*b*) the work to be performed by the Custodian and the Additional, Deputy and Assistant Custodians;

(*c*) the delegation of powers of the Custodian to the Additional Deputy or Assistant Custodian;

(*d*) the fees payable to the Custodian for the management and disposal of any property vested in him and the manner in which such fees shall be paid;

(*e*) the persons by whom and the times at which books of account maintained under this Act may be inspected and audited.

**54. Temporary amendment of section 54 of the Indian Income-tax Act, 1922.**—During the continuance of this Act, sub-section (*3*) of section 54 of the Indian Income-tax Act, 1922 (XI of 1922) shall have effect as if after clause (*o*) thereof, the following clause had been inserted, namely:—

"(*p*) of any such particulars to the Custodian of Evacuee Property appointed under the Administration of Evacuee Property Act, 1949, for the purpose of enabling him to discharge the duties imposed upon him by or under the said Act."

**55. Repeal and saving.**—(*1*) The Administration of Evacuee Property Ordinance, 1949 (XXVII of 1949) is hereby repealed.

(*2*) The repeal by this Act of the Administration of Evacuee Property Ordinance, 1949 (XXVII of 1949) shall not affect the previous operation thereof, and subject thereto, anything done or any action taken in the exercise of any power conferred by or under that Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

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## STATEMENT OF OBJECTS AND REASONS.

On account of the setting up of the two Dominions of India and Pakistan or on account of civil disturbances or the fear of such disturbances, a large number of people migrated from one Dominion to the other. It was not possible for such people to make any satisfactory arrangement for the management of the property left behind by them. For the efficient management and administration of evacuee property, the Government of East Punjab promulgated an Ordinance, which was converted into an Act—the East Panjab Evacuees' (Administration of Property) Act, 1947 (E.P. Act XIV of 1947). This Act, with certain modifications, was extended to Delhi and Ajmer-Merwara.

On the 13th of June 1949 an Ordinance was promulgated for the Chief Commissioners' Provinces—the Administration of Evacuee Property (Chief Commissioners' Provinces) Ordinance, 1949 (XII of 1949). The Governors' Provinces and States, including Hyderabad, promulgated Ordinances on similar lines.

It was, however, felt that there should be uniform legislation relating to evacuee property throughout India, except Assam, West Bengal, Manipur, Tripura and Cooch-Behar, where the problems are slightly different. By an amendment of the Government of India Act, 1935, the custody, management and disposal of evacuee property was made a subject in the Concurrent Legislative List. On the 18th of October, 1949 an Ordinance called the Administration of Evacuee Property Ordinance, 1949 (XXVII of 1949) was promulgated which extended to all the Provinces of India (except Assam and West Bengal) and to all the Acceding States (except Cooch-Behar, Manipur and Tripura). This Ordinance will expire in April, 1950.

It is desirable to re-enact Ordinance No. XXVII of 1949 as an Act of the Legislature.

MOHAN LAL SAKSENA.

NEW DELHI;

*The 29th November, 1949.*

A. BILL No. 65 OF 1949.

*A Bill to provide for the constitution and regulation of an armed Central Reserve Police Force.*

WHEREAS it is expedient to provide for the constitution and regulation of an armed Central Reserve Police Force;

It is hereby enacted as follows:—

PRELIMINARY.

**1. Short title and extent.**—(*1*) This Act may be called the Central Reserve Police Force Act, 1949.

(*2*) It extends to the whole of India, and applies to members of the Force, wherever they may be.

**2. Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "active duty" means the duty to restore and preserve order in any local area in the event of any disturbance therein;

(*b*) "close arrest" means confinement within the Force or a detachment of the Force or a post quarter-guard building or tent under charge of a guard;

(*c*) "the Force" means the Central Reserve Police Force;

(*d*) "member of the Force" means a person who has been appointed to the Force by the Commandant, whether before or after the commencement of this Act, and in sections 1, 3, 6, 7, 16, 17, 18 and 19, includes also a person appointed to the Force by the Central Government, whether before or after such commencement;

(*e*) "open arrest" means confinement within the precincts of any barracks, lines or camp for the time being occupied by any part of the Force;

(*f*) "prescribed" means prescribed by rules made under this Act;

(*g*) "subordinate officer" means a member of the Force of the rank of subedar-major, subedar, jamadar or sub-inspector;

(*h*) the expressions "assault", "criminal force", "fraudulently", "reason to believe" and "voluntarily causing hurt" have the meanings assigned to them respectively in the Indian Penal Code (Act XLV of 1860).

CONSTITUTION OF THE FORCE.

**3. Constitution of the Force.**—(*1*) There shall continue to be an armed force maintained by the Central Government and called the Central Reserve Police Force.

(*2*) The Force shall be constituted in such manner, and the members of the Force shall receive such pay, pension and other remuneration, as may be prescribed.

**4. Appointment and powers of superior officers.**—(*1*) The Central Government may appoint to the Force a Commandant and such other persons as it thinks fit to be assistant commandants and company officers.

(*2*) The Commandant and every other officer so appointed shall have, and may exercise, such powers and authority as may be provided by or under this Act.

**5. Enrolement.**—Before a person is appointed to be a member of the Force, the statement contained in the recruiting roll set out in the Schedule shall be read out and, if necessary, explained to him in the presence of an officer appointed under sub-section (*1*) of section 4,

and shall be signed by such person in acknowledgment of its having been so read out to him:

Provided that any person who has for a period of six months served with the Force, shall, on appointment to the Force thereafter, be deemed to be a member of the Force notwithstanding that the provisions of this section have not been complied with in his case.

**6. Resignation and withdrawal from the Force.**—No member of the Force shall be at liberty to—

(*a*) resign his appointment during the term of his engagement, except before the expiration of the first three months of his service; or

(*b*) withdraw himself from all or any of the duties of his appointment, without the previous permission in writing of the Commandant or assistant commandant or any other officer authorised by the Commandant to grant such permission.

GENERAL DUTIES OF MEMBERS OF THE FORCE.

**7. General duties of members of the Force.**—(*1*) It shall be the duty of every member of the Force promptly to obey and to execute all orders and warrants lawfully issued to him by any competent authority, to detect and bring offenders to justice and to apprehend all persons whom he is legally authorised to apprehend and for whose apprehension sufficient grounds exist.

(*2*) Every member of the Force shall be liable to serve without and beyond, as well as within, the territory of India.

SUPERINTENDENCE, CONTROL AND ADMINISTRATION OF THE FORCE.

**8. Superintendence, control and administration of the Force.**—(*1*) The superintendence of, and control over, the Force shall vest in the Central Government; and the Force shall be administered by the Central Government in accordance with the provisions of this Act and of any rules made thereunder, through such officers as the Central Government may from time to time iappoint in this behalf.

(*2*) The Headquarters of the Force shall be at Neemuch or at such other place as may from time to time be specified by the Central Government.

(*3*) While on active duty outside its headquarters, the Force shall be subject to the general control and direction of such authority or

officer as may be prescribed or as may be specially appointed by the Central Government in this behalf.

## Offences and Punishments.

**9. More heinous offences.**—Every member of the Force who—

(*a*) begins, excites, causes or conspires to cause or joins in any mutiny, or, being present at any mutiny, does not use his utmost endeavour to suppress it, or knowing, or having reason to believe in, the existence of any mutiny, or of any intention or conspiracy to mutiny or of any conspiracy against the State does not, without delay, give information thereof to his superior officer; or

(*b*) uses, or attempts to use, criminal force to, or commits an assault on, his superior officer, whether on or off duty, knowing or having reason to believe him to be such; or

(*c*) shamefully abandons or delivers up any post or guard which is committed to his charge, or which it is his duty to defend; or

(*d*) directly or indirectly holds correspondence with, or assists or relieves any person in arms against the State or omits to discover immediately to his superior officer any such correspondence coming to his knowledge; or

who, while on active duty,—

(*e*) disobeys the lawful command of his superior officer; or

(*f*) deserts the Force; or

(*g*) being a sentry, sleeps upon his post or quits it without being regularly relieved or without leave; or

(*h*) leaves his commanding officer, or his post or party, to go in search of plunder; or

(*i*) quits his guard, picquet, party or patrol without being regularly relieved or without leave; or

(*j*) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard or breaks into any house or other place for plunder, or plunders, destroys or damages property of any kind; or

(*k*) intentionally causes or spreads a false alarm in action or in camp, garrison or quarters; or

(*l*) displays cowardice in the execution of his duty,

shall be punishable with transportation for life for a term of not less than seven years or with imprisonment for a term which may extend to fourteen years or with fine which may extend to three months' pay or with fine to that extent in addition to such sentence of transportation or imprisonment.

**10. Less heinous offences.**—Every member of the Force who—

(*a*) is in a state of intoxication when on, or after having been warned for any duty or on parade or on the line of march; or

(*b*) strikes or attempts to force any sentry; or

(*c*) being in command of a guard, picquet or patrol, refuses to receive any prisoner or person duly committed to his charge, or without proper authority releases any person or prisoner placed under his charge, or negligently suffers any such prisoner or person to escape; or

(*d*) being under arrest or in confinement, leaves his arrest or confinement, before he is set at liberty by lawful authority; or

(*e*) is grossly insubordinate or insolent to his superior officer in the execution of his office; or

(*f*) refuses to superintend or assist in the making of any field-work or other work of any description ordered to be made either in quarters or in the field; or

(*g*) strikes or otherwise ill-uses any member of the Force subordinate to him in rank or position; or

(*h*) designedly or through neglect injures or loses or fraudulently disposes of his arms, cloths, tools, equipments, ammunition or accoutrements, or any such articles entrusted to him or belonging to any other person; or

(*i*) malingers or feigns or produces disease or infirmity in himself, or intentionally delays his cure, or aggravates his disease or infirmity; or

(*j*) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person; or

(*k*) does not, when called upon by his superior officer so to do or upon ceasing to be a member of the Force forthwith deliver up, or duly account for, all or any arms, ammunition, stores, accoutrements or other property issued or supplied to him or in his custody or possession as such member; or

(*l*) knowingly furnishes a false return or report of the number or state of any men under his command or charge or of any money, arms, ammunition, clothing, equipments, stores or other property in his charge, whether belonging to such men or to the Government or to any member of, or any person attached to, the Force, or who, through design or culpable neglect, omits or refuses to make or send any return or report of the matters aforesaid ; or

(*m*) absents himself without leave, or without sufficient cause overstays leave granted to him ; or

(*n*) is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and discipline ; or

(*o*) contravenes any provision of this Act for which no punishment is expressly provided ; or

who, while not on active duty,—

(*p*) commits any of the offences specified in clauses (*e*) to (*l*) (both inclusive) of section 9,

shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to three months' pay, or with both.

**11. Minor punishments.**—(*1*) The Commandant or any other authority or officer as may be prescribed, may, subject to any rules made under this Act, award in lieu of, or in addition to, suspension or dismissal any one or more of the following punishments to any member of the Force whom he considers to be guilty of disobedience, neglect of duty, or remissness in the discharge of any duty or of other misconduct in his capacity as a member of the Force, that is to say,—

(*a*) reduction in rank ;

(*b*) fine of any amount not exceeding one month's pay and allowances ;

(*c*) confinement to quarters, lines or camp for a term not exceeding one month ;

(*d*) confinement in the quarter-guard for not more than twenty-eight days, with or without punishment drill or extra guard fatigue or other duty ; and

(*e*) removal from any office of distinction or special emolument in the Force,

(*2*) Any punishment specified in clause (*c*) or clause (*d*) of sub-section (*1*) may be awarded by any gazetted officer when in command of any detachment of the Force away from headquarters, provided he is specially authorised in this behalf by the Commandant.

(*3*) The assistant commandant, a company officer or a subordinate officer, not being below the rank of subedar or inspector, commanding a separate detachment or an outpost, or in temporary command at the headquarters of the Force may, without a formal trial, award to any member of the Force who is for the time being subject to his authority any one or more of the following punishments for the commission of any petty offence against discipline which is not otherwise provided for in this Act, or which is not of a sufficiently serious nature to require prosecution before a Criminal Court, that is to say,—

(*a*) confinement for not more than seven days in the quarter-guard or such other place as may be considered suitable, with forfeiture of all pay and allowances during its continuance;

(*b*) punishment drill, or extra guard, fatigue or other duty, for not more than thirty days, with or without confinement to quarters, lines or camp;

(*c*) censure or severe censure: provided that this punishment may be awarded to a subordinate officer only by the Commandant.

(*4*) A jemadar or sub-inspector who is temporarily in command of a detachment or an outpost may in like manner and for the commission of any like offence, award to any member of the Force for the time being subject to his authority any of the punishments specified in clause (*b*) of sub-section (*3*) for not more than fifteen days.

**12. Place of imprisonment and liability to dismissal on imprisonment.**—(*1*) Every person sentenced under this Act to imprisonment may be dismissed from the Force, and shall further be liable to forfeiture of pay, allowance and any other moneys due to him, as well as of any medals and decorations received by him.

(*2*) Every such person shall, if he is so dismissed, be imprisoned in the prescribed prison, but if he is not also dismissed from the Force, he may, if the Court or the Commandant so directs, be confined in the quarter-guard or such other place as the Court or the Commandant may consider suitable.

**13. Deductions from pay and allowances.**—The following penal deductions may be made from the pay and allowances of a member of the Force by his company officer, that is to say,—

(*a*) all pay and allowances for every day of absence either on desertion or without leave and for every day of imprisonment

awarded by a Criminal Court or of confinement awarded under section 11;

(*b*) all pay and allowances for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted;

(*c*) all pay and allowance for every day on which he is in hospital on account of sickness certified by the medical officer attending on him at the hospital to have been caused by an offence committed by him under this Act;

(*d*) all pay and allowances ordered to be forfeited under section 11; and

(*e*) such sum as may be ordered by the Commandant or assistant commandant in order to make good any expenses caused by the member of the Force, or any loss of, or damage or destruction done by him to, any arms, ammunition, equipment, clothing, instruments or decorations belonging to the Force or to any buildings or property.

**14. Collective fines.**—Whenever any weapon, part of a weapon or ammunition, forming part of the equipment of a company or other similar unit of the Force is lost or stolen, the Commandant may, after making such inquiry as he thinks fit and subject to such rules as may be prescribed, impose a collective fine upon the subordinate officers and men of such unit, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

ARREST.

**15. Arrest.**—(*1*) Any member of the Force who commits any offence specified in section 9 or section 10 may be placed on open or close arrest by any officer of the Force.

(*2*) Where any subordinate officer orders an arrest under sub-section (*1*), he shall forthwith or at the earliest opportunity report the arrest to his company or detachment commander who shall after investigating the case order the release or the continued arrest of the member of the Force arrested.

MISCELLANEOUS.

**16. Powers and duties conferrable and imposable on members of the Force.**—(*1*) The Central Government may, by general or special order,

confer or impose upon any member of the Force any of the powers or duties conferred or imposed on a police officer of any class or grade by any law for the time being in force.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), the Central Government may invest the Commandant or an assistant commandant with the powers of a Magistrate of any class for the purpose of inquiring into or trying any offence committed by a member of the Force and punishable under this Act, or any offence committed by a member of the Force against the person or property of another member:

Provided that—

(i) when the offender is on leave or absent from duty, or

(ii) when the offence is not connected with the offender's duties as a member of the Force, or

(iii) when it is a petty offence, even if connected with the offender's duties as a member of the Force,

the offence may, if the prescribed authority within the limits of whose jurisdiction the offence has been committed, so directs, be inquired into or tried by an ordinary Criminal Court having jurisdiction in the matter.

**17. Protection for acts of members of the Force.**—(1) In any suit or proceeding against any member of the Force for any act done by him in pursuance of a warrant or order of a competent authority, it shall be lawful for him to plead that such act was done by him under the authority of such warrant or order.

(2) Any such plea may be proved by the production of the warrant or order directing the act, and if it is so proved the member of the Force shall thereupon be discharged from liability in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such warrant or order.

(3) Notwithstanding anything contained in any other law for the time being in force, any legal proceeding (whether civil or criminal) which may lawfully be brought against any member of the Force for anything done or intended to be done under the powers conferred by, or in pursuance of, any provision of this Act or the rules thereunder, shall be commenced within three months, after the act complained of was committed and not otherwise, and notice in writing of such

proceeding and of the cause thereof shall be given to the defendant or his superior officer at least one month before the commencement of such proceeding.

**18. Power to make rules.**—(*1*) The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) regulating the classes and grades of, and the pay, pension and other remuneration of, members of the Force, and their conditions of service in the Force;

(*b*) regulating the powers and duties of officers authorised to exercise any functions by or under this Act.

(*c*) fixing the period of service for members of the Force;

(*d*) regulating the award of minor punishments under section 11, and providing for appeals from, or the revision of, orders under that section, or the remission of fines imposed under that section, and the remission of deductions made under section 13;

(*e*) regulating the several or collective liability of members of the Force in the case of the loss or theft of weapons and ammunition;

(*f*) for the disposal of criminal cases arising under this Act and for specifying the prison in which a person convicted in any such case may be confined.

**19. Validation of acts done before commencement of Act.**—Any order made, thing done, or action taken by or in relation to a member of the Force, on or after the 15th day of August, 1947, but before the commencement of this Act, shall for all purposes be deemed to have been made, done or taken under this Act as if this Act were in force on the day on which such order was made, thing was done or action was taken.

———

# THE SCHEDULE.

## Recruiting Roll.

(*See* section 5.)

After you have served in the Force for such period as the Central Government may prescribe, you may, at any time when not on active duty, apply for discharge, through the officer to whom you may be subordinate, to the Commandant, and you will be granted your discharge after two months from the date of your application, unless your discharge would cause the vacancies in the Force to exceed one-tenth of the sanctioned strength in which case you shall be bound to remain until this objection is waived or removed. But when on active duty, you shall have no claim to a discharge, and you shall be bound to remain to do your duty until the necessity for retaining you in the Force ceases when you may make your application in the abovementioned manner:

Provided that, if you wish to withdraw from the Force, you may submit your resignation at any time before the expiration of the first three months of your service, but not afterwards until the completion of the period prescribed as aforesaid; the Commandant may either accept your resignation forthwith or at the end of three months from the date of its receipt:

Provided, also, that the Commandant may, if he thinks fit, allow you to resign at any time on your giving three months notice of your wish to do so.

Signature of the member of the Force in acknowledgment of the above having been read out to him.

Space for impression of the member's left thumb to be taken in the presence of the enrolling officer.

Signed in my presence after I had ascertained that the candidate understood the purport of what he signed.

*Commandant*
*or other authorised enrolling officer,*

Place

Date

## STATEMENT OF OBJECTS AND REASONS.

The "Crown Representative's Police Force" which was raised by the late Crown Representative as a reserve force to aid Indian States in the maintenance of law and order in times of emergency, has been retained as the Central Reserve Police Force even after the lapse of paramountcy.

2. The Crown Representative's Police Force Law, 1939, which was made under the Foreign (Jurisdiction) Order, 1937, to provide for the constitution and regulation of the Force, automatically ceased to have effect from the 15th August, 1947, but no enactment has been made for the regulation and control of this Force by the Government of India after the 15th August, 1947. The objects of the proposed Bill are to replace the old Crown Representative's Police Force Law, 1939, and thus provide for the organisation, control and regulation of the Central Reserve Police Force by the Central Government. For the purposes of this Bill, this Force falls within the category of "any other armed forces raised or maintained by the Dominion" mentioned in paragraph 1 of List I of the Seventh Schedule to the Government of India Act, 1935, as adapted.

V. J. PATEL,

NEW DELHI,

*The 22nd November*, 1949.

## NOTIFICATION.

No. L.D 969—Legis. 30-49-5, dated Bangalore, 18th January 1950.

Ordered that the accompanying Indian Penal Code (Amendment) Bill, 1949 (69 of 1949), the Prohibition of Manufacture and Import of Hydrogenated Vegetable Oils Bill, 1949 (71 of 1949), the Punishment of Tax Evaders and Blackmarketeers Bill, 1949 (72 of 1949), the Children's Protection Bill, 1949 (73 of 1949), the Council of Press of India Bill, (74 of 1949), the Training and Employment Bill (76 of 1949), the Rehabilitation Finance Administration (Amendment) Bill (77 of 1949), the Banking Companies (Amendment) Bill (79 of 1949) and the Undesirable Immigrants (Expulsion from Assam) Bill, 1949 (81 of 1949) be republished in the *Mysore Gazette* for general information.

By Order,

B. S. PUTTASWAMY,
*Legal Remembrancer and*
*Secretary to Government,*
*Law Department.*

# PART V.

## Bills introduced in the Constituent Assembly of India (Legislative), Reports of Select Committees presented to the Constituent Assembly of India (Legislative) and Bills published under Rule 39 of the Constituent Assembly (Legislative) Rules of Procedure and Conduct of Business.

## GOVERNMENT OF INDIA

## CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

The following Bills were introduced in the Constituent Assembly of India (Legislative) on the 16th December, 1949 :—

### A. Bill No. 69 of 1949.

*A. Bill further to amend the Indian Penal Code.*

Whereas it is expedient further to amend the Indian Penal Code (XLV of 1860) in the manner hereinafter appearing;

It is hereby enacted as follows :—

**1. Short title, extent and commencement.**—(1) This Act may be called the Indian Penal Code (Amendment) Act, 19 .

(2) It shall extend to such parts of the Dominion of India where the Indian Penal Code and all amended provisions thereof are in force at present.

(3) It shall come into force at once.

**2. Amendment of section 53, Act XLV of 1860.**—In section 53 of the Indian Penal Code (XLV of 1860) (hereinafter referred to as the said Act) the words "First-Death" shall be omitted and the clauses Secondly, Thirdly, Fourthly, Fifthly, and Sixthly, shall be renumbered First, Secondly, Thirdly, Fourthly, and Fifthly, respectively.

**3. Amendment of section 121, Act XLV of 1860.**—In section 121 of the said Act the words "death, or" shall be omitted.

**4. Amendment of section 132, Act XLV of 1860.**—In section 132 of the said Act the words "with death or" shall be omitted.

**5. Amendment of section 194, Act XLV of 1860.**—In section 194 of the said Act the words "either" and "death or" shall be omitted.

**6. Amendment of section 302, Act XLV of 1860.**—In section 302 of the said Act the words "death, or" shall be omitted.

**7. Omission of section 303, Act XLV of 1860.**—Section 303 of the said Act shall be omitted.

**8. Amendment of section 305, Act XLV of 1860.**—In section 305 of the said Act the words "death or" shall be omitted.

**9. Amendment of section 307, Act XLV of 1860.**—The second paragraph of section 307 of the said Act shall be omitted.

**10. Amendment of section 396, Act XLV of 1860.**—In section 396 of the said Act the words "death, or" shall be omitted.

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## STATEMENT OF OBJECTS AND REASONS.

The object of the Bill is to abolish sentence of death prescribed for different offences under the Indian Penal Code. Experience has shown that the mode of punishment has not only failed to achieve its object of creating deterrent effects but has in many cases put an end to human lives which, if spared, might have proved very precious to the country. The abolition of death sentence will enable the state to prevent the irreparable mischief arising out of miscarriage of justice. The main provision of the Bill will do away with sentence of death altogether as a mode of punishment.

ROHINI KUMAR CHAUDHURI.

## A. BILL NO. 71 OF 1949.

*A Bill to provide for the prohibition of manufacture and import of hydrogenated vegetable oils.*

WHEREAS it is expedient to provide for the prohibition of the manufacture and import of hydrogenated vegetable oils popularly known as *vanaspati* ghee;

It is hereby enacted as follows:—

**1. Short title, extent and commencement.**—(*1*) This Act may be called the Prohibition of Manufacture and Import of Hydrogenated Vegetable Oils Act, 1949.

(2) It extends to all the provinces of India and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.

(3) It shall come into force on such date as the Central Governmene may, by notification in the official Gazette, appoint in this behalf.

**2. Definitions.**—In this Act,—

(a) "vegetable oils" include cocoanut, groundnut, cotton seed, sesamum, *til*, rape seed oils and such other oils as are used or are usable for the manufacture of hydrogenated vegetable oils popularly known as *vanaspati* ghee.

(b) Hydrogenation means the process of passing hydrogen through vegetable oils.

**3. Prohibition of manufacture and import of hydrogenated vegetable oils.**—It is hereby declared that it is expedient in the public interest that the manufacture and import in the Indian Union of hydrogenated vegetable oils, popularly known as *vanaspti* ghee, be prohibited and the same are hereby prohibited.

**4. Punishment for manufacture or import of hydrogenated vegetable oils.**—Any person who manufactures or imports or abets the manufacture or import of hydrogenated vegetable oils into the Indian Union shall be punished with imprisonment of either description for a term which may extend to one year.

**5. Forfeiture of certain property used in the commission of the offence.**—Whenever any offence relating to the manufacture or import of hydrogenated vegetable oils has been proved to have been committed, the court shall order that the machinery, utensils, receptacles, other instruments or articles, components or unfinished or finished goods and the imported vegetable oils, as the case may be, be forfeited to the Government.

**6. Issue of search warrants, disposal of property seized and appeals.**—(1) If a District Magistrate, Sub-Divisional Magistrate or Magistrate of the First Class specially empowered in this behalf, upon information and after such enquiry as he thinks necessary, has reason to believe that any place is being used for the manufacture of hydrogenated vegetable oils or for the deposit of imported hydrogenated vegetable oils, he may, by warrant, authorise any

Police officer, above the rank of a constable, to enter, with such assistance as may be required, such place and to search the same and take into possession any machinery, utensils, receptacles, other instruments or articles, components or unfinished or finished goods used for and connected with the manufacture of hydrogenated vegetable oils and the imported hydrogenated vegetable oils, as the case may be, in accordance with the general provisions of the Code of Criminal Procedure, 1898 (V of 1898) relating to searches, and make a report to the court how the warrant has been executed and what things or articles have been taken into possession.

(*2*) The court may make such orders as it thinks fit for the proper custody of the articles or things taken into possession on search pending the conclusion of the enquiry or trial, and after conclusion of the enquiry or trial, order the destruction, forfeiture, sale of any such articles or things, as the case may be, and in case the court finds that such articles or things were not used for or were not connected with the manufacture of hydrogenated vegetable oils or the stuff seized was not hydrogenated vegetable oil or was not imported, it shall order the return of such articles, things or goods to the person entitled to the possession thereof.

(*3*) Any person aggrieved by an order made under sub-section (*1*) may appeal against such order to the court to which appeals ordinarily lie from such subordinate court.

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## STATEMENT OF OBJECTS AND REASONS.

This Bill aims at prohibiting the manufacture and import of what is popularly known as *vanaspati* ghee. The stuff known as *vanaspati* ghee is in fact no ghee at all, but it is hydrogenated vegetable oil and that too of inferior quality from the point of nutrition. Usually groundnut or cotton seed oil and similar oils are used for the manufacture of *vanaspati* ghee. The process of hydrogenation, *i.e.*, passing hydrogen through vegetable oils solidifies these oils and imparts to them the texture, shape, consistency and flavour of ghee and thereby invests these oils with potential and potent capacity for being undetectably adulterated with pure ghee. The Ayurvedic science and the popular notions associate great potentialities of imparting vigour and strength to the human system with pure ghee and regard milk-ghee as *Amrit*.

In the last few years its manufacture has increased to an alarming extent and the manufacturing interests have become so powerful and

influential that in spite of its most baneful effects on the physical health, public morals and rural economy of the country, the Government has not been able to check its growth.

It has been proved by experiments carried on in Government Scientific Laboratories that its use is detrimental to health.

The demand in the country for prohibiting the manufacture and import of *vanaspati* ghee is very strong.

As the clauses are self-evident, no separate notes are necessary.

THAKUR DAS BHARGAVA.

## A. Bill No. 72 of 1949.

*A Bill to provide for the punishment of tax evaders and blackmarketeers.*

Whereas it is expedient and necessary to check the evil of evasion of taxation by fraud or falsehood as also the widespread practice of blackmarketing in this country;

It is hereby enacted as follows:—

1. **Short-title, extent and commencement.**—(*1*) This Act may be called the Punishment of Tax Evaders and Blackmarketeers Act, 19 .

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

2. **Definition.**—"Blackmarketing" for the purpose of this Act shall mean and include excessive price charged in buying, selling, giving loan, renting, leasing, pledging or mortgaging any goods, property in land or buildings, stocks, shares or debentures, dealings in which are regulated by the Government of India or any State therein; prices fixed in maximum or minimum distribution, use of consumption controlled by any system of rationing or quota, and such practices as premia or *Pugree* paid for lodging or house-room, furniture or utensils wherever rents for such house-room with or without furniture or utensils are controlled.

3. **Punishment for Tax-evasion and Blackmarketing.**—(*1*) Every person, found guilty of evading by false or misleading statements, or by fraudulent means, payment of taxation due from him as determined by appropriate authority shall be punishable with death or transportation for life.

(2) Every person found guilty of blackmarketing with intent to make for himself an excessive and undue profit or gain in buying and selling of goods or property, movable or immovable, shall be punishable with death or transportation for life:

Provided that no prosecution under this section shall be started except with the sanction of the Government of India.

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## STATEMENT OF OBJECTS AND REASONS.

The evil of evading taxation, particularly in respect of Income and Super Taxes, has in recent years attained such dimensions that a Special Commission of Investigation has had to be appointed by specific legislation to investigate such cases referred to the Commission by Government. The amount involved in such evasion of taxation has been estimated to aggregate several hundred crores of rupees, even if such amounts are considered only since the 1st of April 1945. Most of this evasion is effected by fraud, falsehood or corruption and bribery. The money thus kept away from the public exchequer is responsible in a large degree for progressive rise in prices and other evils characterising Indian economy today. Under these circumstances it is necessary and expedient to provide for effective and deterrent punishment of those found guilty of such offences.

Similarly, the evil of blackmarketing prevails on a large scale, and results in intensive exploitation of the ignorant, helpless and backward masses. All the measures of control or rationing tend to be defeated or circumvented by the blackmarketeer. Evils of corruption and bribery result from this source on a large scale; and the profit made in such market is a fruitful occasion for evasion of taxation. It is equally imperative, therefore, to provide for prompt and deterrent punishment of those found guilty of such practices.

K. T. SHAH.

## A. BILL No. 73 OF 1949.

*A Bill to provide for protection, maintenance, custody, education and employment of children.*

WHEREAS it is expedient and necessary to provide for protection, maintenance, custody, education and employment of uncared for children and young persons so as to save them from moral and material abandonment and exploitation;

It is hereby enacted as follows :—

**1. Short title, extent and commencement.**—(*1*) This Act may be called the Children's Protection Act, 19 .

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

**2. Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "a child" means any person not above the age of fourteen;

(*b*) "parent" means father or mother including a step-father and step-mother;

(*c*) "guardian" means any person who is, for the time being, in actual charge, custody or control of the child or young person;

(*d*) "young person" means any person who is above fourteen years of age but not above eighteen;

(*e*) "prescribed" means prescribed by rules made under this Act.

**3. Interrogation of children or young persons loitering, begging or vagabonding in public places.**—It shall be lawful for any Magistrate, a Member of the Provincial or Central Legislature, a police constable and any other person as may be prescribed to interrogate any child or young person found loitering or begging or vagabonding in any public street, or at any railway station or in or near any public place, to bring him before a Magistrate.

**4. Registration of uncared for children or young persons.**—If it is found that a child or a young person is not being maintained or looked after or otherwise provided for in any reasonable manner or is being used for earning money by any means other than regular employment, he shall at once be registered as an uncared for child or young person.

**5. Release of children or young persons on parent or guardian giving an undertaking.**—In every case where the child or young person has a parent or a proper guardian prepared to look after him, the child or young person may be released on such parent or parents or guardian or guardians giving an undertaking in writing, with one respectable surety, that—

(*i*) the child or the young person will not be permitted to loiter any further,

(*ii*) he will be provided with adequate food and clothing at the house and supervised,

(*iii*) he shall be enrolled as a student in some school as far as possible, and

(*iv*) if the circumstances of the family demand that he should be employed, he is in regular employment of some person whose name and status shall be intimated to a police station from time to time together with the wages or salary received and a statement of the nature of work the child or the young person is required to do.

6. **Defaulting parent or guardian to execute a bond.**—The parent or guardian, who fails to carry out or act upto the above undertaking in any particular, may be required to execute a bond in a sum not exceeding five hundred rupees with one surety in the like sum.

7. **Penalty for subsequent failure by parent or guardian.**—On subsequent failure, the parent or guardian, besides being liable to be punished with forfeiture of the bond, shall be liable to fine which may extend to two hundred and fifty rupees.

8. **Provincial Government to make arrangements for education, employment and care of uncared for children or young persons.**—Every child or young person, for whom no possibility of adequate maintenance and care appears available, shall be registered as an uncared for child or young person, as the case may be, and it shall be the duty of the Provincial Government, with the assistance of the Central Goverement if possible to make adequate arrangements for his education, employment and care.

9. **Return of enrolled child or young person to his parent or guardian.**—Any child or young person so enrolled and admitted in a public institution for purposes of employment, education or otherwise, may be handed over to his parent or guardian on his paying the cost of his maintenance to Government and depositing a sum not exceeding five hundred rupees as an undertaking to look after the child or young person adequately in the future.

10. **Right of Government to recover expenses in fit cases.**—It shall be lawful for any Provincial or State Government to recover, in a fit case, the expenditure incurred on the education and maintenance of the child or the young person, wherever his parent, guardian or a near relation is capable of paying the same.

**11. Arrest of escaped children or young persons.**—It shall be lawful for any police officer or constable to arrest without a warrant any child or young person who has escaped from the public institution to which he was admitted.

**12. A child or young person of criminal tendencies to be kept separately.**—A child or a young person guilty of more than one attempt to run away from such an institution, or one who has manifested any definite criminal tendencies, shall be kept separately from other children.

**13. Employment, etc., of a child or young person to contribute towards his maintenance and education.**—It shall be lawful for any Provincial, State or Central Government to put such a child or a young person to any employment, teach him any course of study or vocation or calling or in any other manner to utilize him so as to, by his efforts and work, contribute towards his own maintenance and education.

**14. Government not to make profit.**—No Government shall, however, make any profit as a result of the work and labours of any child or young person admitted to State custody.

**15. Power to make rules.**—The Central Government may make rules for the purpose of giving effect to the provisions of this Act.

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## STATEMENT OF OBJECTS AND REASONS.

I believe it is the experience of everyone how children and young persons of all ages are found loitering in public streets, near cinema houses and theatres, at railway stations, and in public places without any work, very shabily, if at all clad and living a life which is a matter of shame and disgrace to the whole Indian nation. Such valuable human material is not only being wasted on a very large scale but the fact that it is not possible to make any arrangements or provide for their education and maintenance or even supervision of any sort has contributed to encourage them at this early age to fall a prey to bad and unsocial habits so as to make them not only potential but often real enemies of Society. The provisions in the above Bill are designed to meet his unbearable situation. The Bill does place upon the provincial, State and Central Governments the responsibility of looking after these children, but it is a responsibility which, I believe, no Government would like to avoid. The sooner it is recognized the better it would be for these innumerable children

and young persons as well as the well-being and reputation of the Indian Nation. I do not expect, if the provisions are properly enforced, the cost would be exhorbitant. In any case the value of good results flowing from it will far exceed the cost borne by all the Governments.

We have rightly included the following in the Directive Principles of State Policy in the Constitution that we are adopting.

"Article 31. The State shall, in particular, direct its policy towards securing—

* * * *

(vi) that childhood and youth are protected against exploitation and against moral and material abandonment."

My Bill seeks to secure the early realization of this objective. I am aware that some Provinces have children's Acts. But so far as the purpose embodied in the above Bill is concerned they are a dead letter.

P. S. DESHMUKH.

## A. Bill No. 74 of 1949.

*A Bill to establish a Council of the Press of India to safeguard the freedom of the Press.*

Whereas it is expedient to safeguard the freedom of the Press, to encourage the sense of public service amongst those who are engaged in the profession of journalism and to prevent the growth of monopolistic tendencies in the control and management of the Press in in this country;

It is hereby enacted as follows:—

**1. Short title, extent and commencement.**—(*1*) This Act may be called the Council of the Press of India Act, 19 .

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

**2. Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Press" means newspapers, magazines and periodicals other than those employed for sports and entertainments only, published in this country.

(*b*) "Council" means the Council of the Press of India constituted under this Act.

(*c*) "Monopolistic" means that no person shall hold the ownership of more than one newspaper and one periodical or one magazine.

**3. Council of the Press of India.**—The Government of India shall immediately establish a Council, as hereinafter provided, called the Council of the Press of India.

**4. Composition of the Council.**—The Council shall consist of twenty members nominated by the Government in the first instance as under:—

(i) six members from the proprietors of the Press,

(ii) eight members from editors, journalists and subordinate editorial staff,

(iii) four members from the members ot the Central Legislature, and

(iv) two members from outside other than those mentioned in clauses (i) to (iii).

One of the members of the Council shall be appointed as the President of the Council, by the Government in the first instance.

**5. Duration of the Council and re-nomination of old members.**—(1) The Council, in the first instance, shall be constituted for a period of three years. The Government shall after the expiry of every three years constitute a new Council.

(*2*) Members who have served in one Council may be re-nominated in subsequent Councils.

**6. Objects of the Council.**—The object of the Council shall be—

(i) to safeguard the freedom of the Press;

(ii) to encourage the sense of public service amongst those who are engaged in the profession of journalism; and

(iii) to prevent the growth of monopolistic tendencies in the management and control of the Press in India.

**7. Power to make rules.**—(1) The Council may, from time to time, make rules to carry into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely :—

(a) for keeping under review any development likely to restrict supply of information of public interest and importance ;

(b) for building up a high professional standard in journalism ;

(c) for receiving and considering complaints about the Press ;

(d) for keeping under review any development in Press which may tend towards monopoly ;

(e) for setting up proper methods for imparting good training for journalism ;

(f) for setting up proper methods of recruitment, pay, provident fund, pension and leave scheme for the staff employed in the Press ;

(g) for election of members of the Council ;

(h) for publishing periodical reports recording its work and reviewing from time to time the various developments in the Press ; and

(i) for investigating and reporting on the membership of any company responsible for the publication of the newspaper or periodical, for the purpose of determining the true persons who are financially interested in the company, and materially influence the policy of the company.

**8. Council to submit report to Government.**—The Council shall submit to the Government, every year a report recording its own working and a report regarding the Press of India with special reference to ownership and control of important newspapers and periodicals in this country, external influence, if any, on the policy of the Press, degree of concentration of ownership of the Press, together with their recommendations.

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## STATEMENT OF OBJECTS AND REASONS.

The democratic form of society requires that its members should take an active and intelligent part in the affairs of the community. Therefore it is essential that all members of the community should be supplied with clear and true accounts of events that take place around them and elsewhere, their background and causes, and an

impartial criticism on those matters. The responsibility for fulfilling this need has been to some extent carried out. In view however of this importance of the Press in the society, and also of the changed conditions and time, it is considered necessary to safeguard the freedom of the Press, to encourage a keen sense of public responsibility amongst all those who are engaged in the profession of journalism. It is also equally essential that only people who are properly trained and equipped enter into the profession. Moreover, in recent years, it is noticed that newspapers and periodicals in this country are gradually coming into the hands are under the influence of a particular class of people or being concentrated into a fewer and fewer hands. Independent newspapers are brought over by rich businessmen owning newspapers in different towns who dictate their own policy and contents. It is therefore most desirable that a proper check is put on such anti-social tendencies and the present lot of those who have entered in the profession of journalism is improved. With this object in view this Bill is proposed.

R. K. SIDHVA.

## A. Bill No. 76 of 1949.

*A Bill to make provision for employment and training for employment and to establish a comprehensive youth employment service.*

Whereas it is expedient to make provision relating to employment and training for employment and to provide for the establishment of a comprehensive Youth Employment Service and for purposes connected therewith;

It is hereby enacted as follows:—

**1. Short title, extent and commencement.**—(*1*) This Act shall be called the Training and Employment Act, 195 .

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

**2. Providing proper facilities for employment of persons.**—Subject to the provisions of this Act, it shall be the duty of the Ministries of Labour and Education—

(i) to provide such facilities and service as may be considered expedient for the purpose of assisting persons to select, to fit

themselves for and to obtain and retain, employment suitable to their age and capacity;

(ii) to assist employers to obtain suitable employees; and

(iii) generally to promote employment in accordance with the requirements of the community so as to attain thereby a higher standard of living for the whole community.

**3. Appointment of Advisory Committees.**—(*1*) The Ministries concerned may, for the purpose of advising and assisting them in the discharge of their functions, appoint such separate or joint Advisory Committees as they may think fit for the whole of India or any part thereof.

(*2*) The Ministries of Labour and Education shall make regulations with respect to the constitution and functions of any of the Advisory Committees appointed under sub-section (*1*).

**4. Establishment of Employment Exchanges.**—(*1*) The Ministry of Labour may establish and maintain in such places as it thinks fit Employment Exchanges, that is to say offices or places for the collection and furnishing of information either by the keeping of registers or otherwise respecting persons who seek to engage employees and persons who seek employment.

(*2*) Without prejudice to sub-section (*1*), the Ministries may make such arrangements which they deem expedient for the collection and furnishing of information for providing advice, guidance and other services to persons of any class (whether employed or not) for any of the purposes mentioned in section 2 of this Act.

**5. Provision of Funds.**—The Minister or Ministers concerned may provide in the annual budget such sums of money as may be needed for the fulfilment of the purposes of this Act.

**6. Contribution towards the expenditure incurred by private bodies or any local authority.**—The Minister or Ministers may defray or contribute towards the expenditure incurred by any organization, society or Provincial, State, or any other local authority whatsoever, towards their funds provided the Ministries are convinced that these contributions shall be spent for the purposes mentioned in section 2 of this Act.

**7. Management of Employment Exchanges.**—The Ministers may make regulations with respect to the management of all Employment Exchanges provided by them under this Act and otherwise with respect to the exercise of their functions thereunder.

**8. Right of persons to refuse employment found through any Employment Exchange.**—No person shall be disqualified or otherwise prejudiced in respect of facilities provided at any Employment Exchange on account of his refusal to accept employment found for him through an Employment Exchange if the ground of his refusal is that a trade dispute which affects the trade exists or that the wages offered are lower than those current in the trade in the district where the employment is found.

**9. Provision for Compulsory Training Courses.**—The Minister or Ministers may provide such training courses for persons who are said to be communists whether employed or not and who are above the age of compulsion, as he or they thinks or think necessary or expedient for increasing the efficiency, knowledge, technical skill or capacity of such persons. Either of the Ministers may, by order in writing, compel any child or young person declared to be destitute, delinquent or uncared for under any law for the time being in force to join any training course for such length of time as may be indicated, for the purpose either for getting trained or for any other purpose.

**10. Maintenance of Register of Persons seeking employment and publications of figures of persons employed.**—It shall be the duty of the Government to maintain in detail a Register of all persons who are seeking employment and the figures of persons employed shall be published in the official Gazette at least once in two weeks at regular intervals.

**11. Implementation of schemes of training in co-operation with local authorities or private bodies.**—Any scheme of training or employment may be worked through, or in co-operation with any State Government or local authority or a recognized private organization.

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## STATEMENT OF OBJECTS AND REASONS.

Although Employment Exchanges have come into being as a result of the war and they have since been continued, there remains much to be done in giving them a proper shape and status in the social and economic life of the country. In the second place, there is a great need of increased facilities of training in the various arts, crafts and industries. Although the Ministry of Labour is attending to this, there is lack of co-ordination between this Ministry and Ministry of Education. In fact the Ministry of Education appears to have

nothing to do with this matter. The Bill, therefore, seeks to remedy this unsatisfactory state of affairs. The third object in view is to place greater emphasis on this important work and to arouse governmental as well as popular interest.

P. S. DESHMUKH.

The following Bill was introduced in the Constituent Assembly of India (Legislative) on the 17th December, 1949 :—

A. BILL No. 77 OF 1949.

*A Bill to amend the Rehabilitation Finance Administration Act*, 1948.

WHEREAS it is expedient to amend the Rehabilitation Finance Administration Act, 1948 (XII of 1948), for the purposes hereinafter appearing;

It is hereby enacted as follows :—

**1. Short title.**—This Act may be called the Rehabilitation Finance Administration (Amendment) Act, 1949.

**2. Amendment of Section 1, Act XII of 1948.**—In section 1 of the Rehabilitation Finance Administration Act, 1948 (hereinafter referred to as the said Act), for sub-secaion (2) the following sub-section shall be substituted, namely :—

"(2) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act."

**3. Amendment of Section 2, Act XII of 1948.**—In section 2 of the said Act,—

(*1*) in clause (*d*),—

(*a*) in sub-clause (*i*), for the words "outside India," the words "now forming part of Pakistan" shall be substituted; and

(*b*) in sub-clause (*ii*), for the words "outside India," the words "in any area now forming part of Pakistan" shall be substituted; and

(2) for clause (e), the following clause shall be substituted, namely:—

(e) "loan" means a sum of money advanced by the Administration—

(i) to a displaced person for the purpose of any business or industry in which he is engaged or intends to engage himself, or

(ii) in respect of any business or industry, a substantial portion of which is owned by displaced persons; and'

**4. Amendment of Section 3, Act XII of 1948.**—In sub-section (1) of section 3 of the said Act, the following words shall be added at the end, namely:—

"or to any business or industry, a substantial portion of which is owned by displaced persons."

**5. Amendment of Section 4, Act XII of 1948.**—In section 4 of the said Act, in clauses (b) and (c), for the word "three" the word "four" shall be substituted.

**6. Amendment of Section 10, Act XII of 1948.**—In section 10 of the said Act,—

(i) the words "and with the prior sanction of the Central Government" shall be omitted; and

(ii) to that section the following proviso shall be added, namely:—

"Provided that the appointment and the fixation of the salary, allowances and other conditions of service of the Deputy Chief Administrator and such other officers as may be prescribed by the Central Government, shall be subject to the previous sanction of that Government."

**7. Amendment of Section 11, Act XII of 1948.**—In sub-section (2) of section 11 of the said Act, for the words "All moneys belonging to the Administration," the words "Subject to any regulations that may be made in this behalf, all moneys belonging to the Administration which are not immediately required by the Administration for any purpose" shall be substituted.

**8. Amendment of Section 16, Act XII of 1948.**—In sub-section (1) of section 16 of the said Act, for the words and figures "section 144 of the Indian Companies Act, 1913 (VII of 1913)," the words and figures "the Chartered Accountants Act, 1949 (XXXVIII of 1949)" shall be substituted.

## STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to increase the number of official and non-official members of the Rehabilitation Finance Administration in order to secure wider representation for interests concerned, and to enable the Administration to grant loans to business concerns in which a substantial number of displaced persons are interested. The Bill also provides for the extension of the Act to Acceding States and for more practicable and efficient arrangements regarding recruitment of staff and custody of funds of the Administration.

JOHN MATTHAI.

NEW DELHI;

*The 9th December*, 1949.

The following Bill was introduced in the Constituent Assembly of India (Legislative) on the 20th December 1949 :—

### A. *BILL No. 79 OF 1949.

*A Bill to amend the Banking Companies Act*, 1949.

WHEREAS it is expedient to amend the Banking Companies Act, 1949 (X of 1949), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title.**—This Act may be called the Banking Companies (Amendment) Act, 1949.

2. **Amendment of section 1, Act X of 1949.**—In the Banking Companies Act, 1949 (hereinafter referred to as the said Act), in sub-section (*2*) , for the words " has power to make laws," the words and figures " has power on the 1st day of December, 1949, to make laws " shall be substituted.

3. **Substitution of " outside India " for " elsewhere than in a Province of India ", etc., in certain sections of Act X of 1949.**—In the said Act, wherever an expression mentioned in the first column of the Table hereinunder printed occurs, otherwise than in section 1, unless that

*The Governor-General has been pleased to give the previous sanction required by section 153 of the Government of India Act, 1935, to the introduction in the Legislature of this Bill.

expression is expressly directed to be otherwise amended in this Act, there shall be substituted therefor the expression set opposite to it in the second column of that Table.

TABLE.

| 1 | 2 |
|---|---|
| in a province of India<br>in any province of India<br>in the Provinces of India | ..... in India. |
| elsewhere than in a Province of India<br>outside the Provinces of India | .....outside India. |

**4. Amendment of section 3, Act X of 1949.**—In section 3 of the said Act, for the word "Province" the word "part" shall be substituted.

**5. Amendment of section 5, Act X of 1949.**—In section 5 of the said Act,—

(*i*) after clause (*g*) of sub-section (*1*), the following clause shall be inserted, namely :—

"(*gg*) 'India' means the Provinces and States to which this Act extends ;";

(*ii*) sub-section (*2*) shall be omitted.

**6. Amendment of section 11, Act X of 1949.**—In section 11 of the said Act, the *Explanation* to sub-section (*3*) shall be numbered as *Explanation 1*, and, after that *Explanation* as so numbered, the following *Explanation* shall be inserted as *Explanation 2*, namely :—

"*Explanation 2.*—In this sub-section, all references to a Province shall be construed as including a reference to every Acceding State to which this Act extends."

**7. Amendment of section 23, Act X of 1949.**—In section 23 of the said Act, for the words "No banking company shall open a new place of business or change, otherwise than within the same city, town or village, the location of an existing place of business without obtaining the prior permission in writing of the Reserve Bank", the following words shall be substituted, namely :—

"No banking company shall open a new place of business in any part of India or change, otherwise than within the same city,

town or village, the location of an existing place of business situated in any part of India, and no banking company incorporated in India shall open a new place of business outside India or change, otherwise than within the same city, town or village in any country or area outside India, the location of an existing place of business situated in that country or area without first obtaining the prior permission in writing of the Reserve Bank :".

8. **Amendment of section 25, Act X of 1949.**—In section 25 of the said Act, for clause (*a*) of sub-section (*3*), the following clause shall be substituted namely :—

"(*a*) "assets in India" shall be deemed to include export bills drawn in, and import bills drawn on, and payable in India and expressed in such currencies as the Reserve Bank may from time to time approve in this behalf and also such securities as the Reserve Bank may approve in this behalf, notwithstanding that all or any of the said bills or securities are held outside India."

9. **Insertion of new section 44A in Act X of 1949.**—After section 44 of the said Act, the following section shall be inserted, namely :—

"44A. *Procedure for amalgamation of banking companies.*—(*1*) Notwithstanding anything contained in any law for the time being in force, no banking company shall amalgamate itself with another banking company, unless a scheme containing the terms of such amalgamation has been placed in draft before the shareholders of each of the banking companies concerned separately, and approved by a resolution passed by a majority of the shareholders, representing two-thirds in value of the paid-up capital of each of the said companies, at an extraordinary general body meeting called for the purpose.

(*2*) Notice of every such meeting as is referred to in sub-section (*1*) shall be given to every shareholder of the banking company concerned, in accordance with its articles of association, indicating the time, place and object of the meeting and shall also be published once a week for three consecutive weeks in some newspaper circulating in the locality where the registered office of the banking company concerned is situated.

(*3*) If the scheme of amalgamation is approved by the requisite majority of members present at the meeting either in person, or by a proxy in cases where voting by proxy is allowed, it shall be submitted to the Reserve Bank for sanction and, on

receipt of such sanction, shall be binding on the banking companies concerned and on all the members thereof.

(4) Any shareholder, who has voted against the scheme of amalgamation at the meeting or has given notice in writing at or prior to the meeting to the company or to the presiding officer of the meeting that he dissents from the scheme of amalgamation, shall be entitled to claim from the banking company concerned, in respect of the shares held by him in that company, their market value as on the date immediately prior to the passing of the resolution approving of the scheme of amalgamation, and where there is no market value for such shares, such value as may be arrived at by agreement between the banking company and the dissenting shareholder:

Provided that, if the banking company and the dissenting shareholder do not agree as to the value to be paid for the shares of the dissenting shareholder, the dispute shall be referred by the banking company or the dissenting shareholder to the Reserve Bank for decision and the decision of the Reserve Bank as to the value of the shares to be paid to the dissenting shareholder shall be final for all purposes.

(5) Where the terms of any scheme of amalgamation between two or more banking companies have been sanctioned by the Reserve Bank as aforesaid, the board of directors of each of the banking companies concerned shall have power to enter into all such transactions with the other banking company on behalf of their respective shareholders as may be necessary to secure that the amalgamation shall be fully and effectually carried out and that the rights and liabilities of the members in the amalgamated banking company are safeguarded in terms of the scheme of amalgamation.

(6) Where the board of directors of each of the amalgamating banking companies has by a resolution passed in this behalf declared that all acts and things to be done to give effect to the amalgamation have been done and an affidavit to that effect has been sworn by a responsible officer of each of the banking companies concerned and filed with the registrar, the amalgamation shall become complete, and the registrar shall thereupon strike off the name of that banking company which has ceased to function in its original name.

(7) A copy of every affidavit filed under sub-section (6) shall also be forwarded to the Reserve Bank."

**10. Substitution of new section for section 45, Act X of 1949.**—For section 45 of the said Act, the following section shall be substituted namely :—

"45. *Restriction on compromise or arrangement between banking company and creditors.*—Notwithstanding anything contained in any law for the time being in force, no Court shall sanction a compromise or arrangement between banking company and its creditors or any class of them or between such company and its members or any class of them unless the compromise or arrangement is certified by the Reserve Bank as not being detrimental to the interests of the depositors of such company."

**11. Insertion of New Part IIIA in Act X of 1949.**—In the said Act after Part III, the following shall be inserted as Part IIIA, namely :—

"PART IIIA.

SPECIAL PROVISIONS FOR SPEEDY DISPOSAL OF WINDING UP PROCEEDINGS.

45A. *Court defined.*—In this Part and in Part III, "Court" means the High Court exercising jurisdiction in the place where the registered office of the banking company which is being wound up is situated or, in the case of a banking company incorporated outside India which is being wound up, where its principal place of business is situated, and notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913), or in any notification, order or direction issued thereunder or in any other law for the time being in force, no other Court shall have jurisdiction to entertain any matter relating to or arising out of the winding up of a banking company.

45B. *Power of Court to decide all claims by or against banking companies.*—(*1*) Notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913), or in any other law for the time being in force, the Court shall have full power to decide all claims made by or against any banking company (including claims by or against any of its branches in India), and all questions of priorities and all other questions whatsoever, whether of law or fact, which may relate to or arise in the course of the winding up of the banking company coming within the cognizance of the Court.

(2) There shall be a right of appeal from every order or decision made under this section which, so far as regards the Court expressing it, conclusively determines the rights of the parties with respect to any matter in controversy, and the Court may make rules prescribing the manner in which and the conditions subject to which any such appeal may be filed and heard.

(3) Subject to the provisions of sub-section (2) and notwithstanding anything contained in any other law for the time being in force, every such order or decision shall be final and binding for all purposes as between, on the one hand, the banking company and, on the other hand, all persons who are parties thereto and all persons claiming through or under them or any of them.

45C. *Special provisions for punishing offences in relation to companies being wound up* (1) Notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913), the Code of Criminal Procedure, 1898 (Act V of 1898), or in any other law for the time being in force, the Court may, if it thinks fit, take cognizance of and try in a summary way any offence alleged to have been committed by any person who has taken part in the formation or promotion of the banking company which is being wound up or any past or present director, manager or officer thereof:

Provided that the offence is one punishable under the India Companies Act, 1913 (VII of 1913), with imprisonment for a term which does not exceed two years, or with fine which does not exceed one thousand rupees.

(2) In every case tried summarily under sub-section (1), the Court—

(a) need not summon any witness, if it is satisfied that the evidence of such witness will not be material,

(b) shall not be bound to adjourn a trial for any purpose unless such adjournment is, in the opinion of the Court, necessary in the interests of justice,

(c) shall, before passing sentence, record judgment embodying the substance of the evidence and also the particulars specified in section 263 of the Code of Criminal Procedure, 1898 (Act V of 1898), so far as that section may be applicable,

and nothing contained in sub-section (2) of section 262 of the Code of Criminal Procedure, 1898, shall apply to any such trial.

(*3*) All offences in relation to winding up alleged to have been committed by any person specified in sub-section (*1*) which are punishable under the Indian Companies Act, 1913 (VII of 1913), and which are not tried in a summary way under sub-section (*1*) shall, notwithstanding anything to the contrary contained in that Act or the Code of Criminal Procedure, 1898 (Act V of 1898), or in any other law for the time being in force, be taken cognizance of and tried by a Judge of the Court other than the Judge for the time being dealing with the proceedings for the winding up of the banking company.

(*4*) Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1898 (Act V of 1898), the Court shall take cognizance of any offence under this section without the accused being committed to it for trial and all such trials shall be without the aid of a jury.

45D. *Reserve Bank may tender advice in winding up proceedings.*—Where in any proceeding for the winding up of a banking company in which any person other than the Reserve Bank has been appointed as the official liquidator the Court has directed the official liquidator to obtain the advice of the Reserve Bank on any matter (which it is hereby empowered to do), it shall be lawful for the Reserve Bank to examine the records of any such proceeding and tender such advice on the matter as it may think fit.

45E. *District Magistrate to assist official liquidator in taking charge of property of banking company being wound up.*—(*1*) For the purpose of enabling the official liquidator to take into his custody or under his control, all property, effects and actionable claims to which a banking company, which has been ordered to be wound up, is or appears to be entitled, the official liquidator may request in writing the District Magistrate, within whose jurisdiction any property, books of account or other document of such banking company may be situate or is to be found, to take possession thereof, and the District Magistrate shall on such request being made to him take possession of such property, books of account or other document and forward them to the official liquidator.

(*2*) For the purpose of securing compliance with the provisions of sub-section (*1*), the District Magistrate may take or cause to be taken such steps and use or cause to be used such force as may in his opinion be necessary.

45F. *Special period of limitation.*—Notwithstanding anything to the contrary contained in the Indian Limitation Act, 1908 (IX of 1908), or in any other law for the time being in force, in computing

the period of limitation prescribed for any suit or application by a banking company, the period of one year immediately preceding the date of the order for the winding up of the banking company shall be excluded."

**12. Transfer of pending proceedings in winding up to the Court exercising jurisdiction under this Act.**—Where any proceeding, for the winding up of a banking company or any other proceeding, whether civil or criminal, which has arisen out of or in the course of such winding up, is pending in any Court immediately before the commencement of this Act, it shall stand transferred on such commencement to the Court which would have had jurisdiction to entertain such proceeding if this Act had been in force on the date on which the proceeding commenced, and the Court to which the proceeding stands so transferred shall dispose of the proceeding as if this Act and the amendments made thereby were applicable thereto.

**13. Repeal of Ordinance XXIII of 1949.**—(*1*) The Banking Companies (Amendment) Ordinance, 1949, is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

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## STATEMENT OF OBJECTS AND REASONS.

The Banking Companies (Amendment) Ordinance, 1949 (No. XXIII of 1949) containing special provisions for the speedy disposal of winding up proceedings of banking companies in the interests of creditors and public morality was promulgated by the Governor-General on the 19th September, 1949. The Bill seeks to incorporate these provisions in the Banking Companies Act, 1949, on a permanent basis.

2. In addition to the above, the Bill seeks to amend the Banking Companies Act, 1949, for the following purposes :—

(*i*) to incorporate special provisions for facilitating quick amalgamations between banking companies ;

(*ii*) to empower the Reserve Bank to control opening of branches by Indian banks in foreign countries ;

(*iii*) to provide that for the purposes of section 25 of the Act "assets in India" shall be deemed to include export bills drawn in and import bills drawn on and expressed in such currencies as the Reserve Bank may from time to time approve in this behalf and also such securities as the Reserve Bank may approve in this behalf, including bills and securities held outside India.

JOHN MATTHAI.

NEW DELHI;
*The 7th December*, 1949.

A. BILL NO. 81 OF 1949.

*A Bill to provide for the expulsion from Assam of undesirable immigrants.*

WHEREAS it is expedient to provide for the expulsion from Assam of undesirable immigrants;

It is hereby enacted as follows:—

**1. Short title and extent.**—(*1*) This Act may be called the Undesirable Immigrants (Expulsion from Assam) Act, 1949.

(*2*) It extends to the whole of India.

**2. Power to order expulsion from Assam of undesirable immigrants.**—If the Central Government is satisfied that any person, having been ordinarily resident in any part of Pakistan, has, whether before or after the commencement of this Act, come into Assam and that his stay in that Province is detrimental to the interests of India, the Central Government may by order—

(*a*) direct that person to remove himself from the Province of Assam within such time and by such route as may be specified in the order; and

(*b*) give such further directions in regard to his removal from Assam as it may consider necessary or expedient.

**3. Delegation of power.**—The Central Government may, by notification in the official Gazette, direct that the powers and duties conferred or imposed on it by section 2 shall, subject to such conditions, if any,

as may be specified in the notification, be exercised or discharged also by—

(*a*) any officer subordinate to the Central Government;

(*b*) the Provincial Government of Assam or any officer subordinate to that Government.

**4. Power to give effect to orders, etc.**—Any authority empowered by or in pursuance of the provisions of this Act to exercise any power may, in addition to any other action expressly provided for in this Act, take or cause to be taken such steps, and use or cause to be used such force, as may in its opinion be reasonably necessary for the effective exercise of such power.

**5. Penalties.**—Any person who contravenes or attempts to contravene, or abets a contravention of, any order made under section 2, or fails to comply with any direction given by any such order, shall be punishable with imprisonment which may extend to three years and shall also be liable to fine.

**6. Protection to persons acting under this Act.**—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

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## STATEMENT OF OBJECTS AND REASONS.

During the last few months a serious situation had arisen from the immigration of a very large number of East Bengal residents into Assam. Such large migration is disturbing the economy of the Province, besides giving rise to a serious law and order problem. The Bill seeks to confer necessary powers on the Central Government to deal with the situation.

N. GOPALASWAMI.

NEW DELHI;

*The 9th December*, 1949.

**Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.**

# PART IV

## Section—1-B.

## ACTS OF THE CENTRAL LEGISLATURE AND ORDINANCES OF THE GOVERNOR-GENERAL WHICH APPLY TO MYSORE.

### NOTIFICATIONS.

No. L.D. 990—Legis. 18-49-10, dated Bangalore, 21st January 1950.

Ordered that the accompanying Cinematograph (Second Amendment) Act, 1949, (Act No. LXII of 1949) which received the assent of Governor-General on 26th December, 1949 and was published in the Gazette of India, Extraordinary, dated the 28th December, 1949, be republished in the *Mysore Gazette* for general information.

By Order,

B. S. PUTTASWAMY,
*Legal Remembrancer and*
*Secretary to Government,*
*Law Department.*

### ACT No. LXII OF 1949.

*An Act further to amend the Cinematograph Act, 1918.*

WHEREAS it is expedient further to amend the Cinematograph Act, 1918 (II of 1918), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

**1. Short title and commencement.**—(*1*) This Act may be called the Cinematograph (Second Amendment) Act, 1949.

(*2*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

**2. Amendment of section 1, Act II of 1918.**—In section 1 of the Cinematograph Act, 1918 (hereinafter referred to as the said Act), for

sub-sections (2) and (3), the following sub-section shall be substituted, namely :—

" (2) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt within this Act."

**3. Amendment of section 2, Act II of 1918.**—In section 2 of the said Act,—

(*i*) after the definition of ' adult ' the following definition shall be inserted, namely,

" Authority " means the Authority constituted by the Central Government under section 6 ; and

(*ii*) in the definition of " place ", for the words " tent or vessel ", the words " tent or any description of transport, whether by sea, land or air," shall be substituted.

**4. Insertion of new section 2A in Act II of 1918.**—After section 2 of the said Act, the following section shall be inserted, namely :—

"2A. *Rule of construction in the application of Act to Acceding States.*—In the application of this Act to any Acceding State, unless there is anything repugnant in the subject or context,—

(*a*) references to a Province or the Provincial Government shall be construed as references to that Acceding State or the Government of that Acceding State, as the case may be ;

(*b*) references to the District Magistrate shall be construed as references to the corresponding authority in the Acceding State ; and

(*c*) references to the official Gazette shall be construed as references to the corresponding official publication of that State."

**5. Amendment of section 5, Act II of 1918.**—For sub-sections (2) and (2*A*) of section 5 of the said Act, the following sub-sections shall be substituted, namely :—

" (2) The grant of every licence shall be subject to the conditions that the licensee will not exhibit, or permit to be exhibited, in such place—

(*a*) any film other than a film which has been certified by the Authority as suitable for unrestricted public exhibition or

for public exhibition restricted to adults, and which, when exhibited, displays the prescribed mark of that Authority, and has not been altered or tampered with in any way since such mark was affixed thereto ;

(*b*) any film which has been certified by the Authority as suitable for public exhibition restricted to adults to any person who is not an adult ;

(*c*) any film contrary to any directions that may be issued from time to time in this behalf by the Central Government under sub-section (*2A*),

and such conditions shall be deemed to be inserted in every licence.

(*2A*) The Central Government may from time to time issue directions to licensees generally, or to any licensee, in particular, for the purpose of regulating the exhibition of any film or class of films so that scientific films, films intended for educational purposes, films dealing with news and current events, documentary films or indigenous films secure an adequate opportunity of being exhibited."

**6. Substitution of new sections for sections 6 to 9, Act II of 1918.**—For sections 6, 7, 8 and 9 of the said Act, the following sections shall be substituted, namely :—

"6. *Certification of films.*—(*1*) The Central Government may, by notification in the official Gazette, constitute an Authority in the prescribed manner for the purpose of examining and certifying films as suitable for unrestricted public exhibition or for public exhibition restricted to adults, and prescribe the manner in which the Authority shall exercise the powers conferred on it by this Act.

(*2*) If the Authority after examination considers that a film is suitable for unrestricted public exhibition or that, although not suitable for such exhibition, it is suitable for public exhibition restricted to adults, it shall grant to the person applying for a certificate in respect of the film a "U" certificate in the former case and an "A" certificate in the latter case, and shall in either case cause the film to be so marked in the prescribed manner, and any such certificate shall, save as hereinafter provided, be valid throughout the territories to which this Act extends.

(3) If the Authority is of opinion that a film is neither suitable for unrestricted public exhibition nor for public exhibition restricted to adults, it shall inform the person applying for the certificate of its decision.

(4) Any person applying for a certificate, who is aggrieved by the decision of the Authority refusing to grant a certificate or to grant only an "A" certificate, may, within thirty days from the date of such decision, appeal to the Central Government, and the Central Government may, after such inquiry as it considers necessary, pass such orders thereon as it thinks fit.

(5) If the Central Government rejects an appeal on the ground that a film is neither suitable for unrestricted public exhibition nor for public exhibition restricted to adults, it shall, by notification in the official Gazette, direct that the film shall be deemed to be an uncertified film in the whole of the territories to which this Act extends.

(6) For the purpose of disposing of any appeal under this section, the Central Government may demand the exhibition of any film before any authority specified in this behalf.

(7) Notwithstanding anything contained in this Act, the Central Government may, of its own motion, by notification in the official Gazette, direct that—

(a) a certified film shall be deemed to be an uncertified film in the whole or any part of the territories to which this Act extends, or

(b) a film in respect of which a "U" certificate has been granted shall be deemed to be a film in respect of which an "A" certificate has been granted.

*Explanation.*—The grant of an "A" certificate in respect of any film shall not be deemed to prohibit the exhibition thereof to children below the age of three.

7. *Power of Provincial Government or local authority to suspend exhibition of films in certain cases.*—(1) The Provincial Government, in respect of the whole Province or any part thereof, and the District Magistrate or the Commissioner of Police, in respect of the district or town within his jurisdiction, may, if it or he is of opinion that any film, which is being publicly exhibited, is likely to cause a breach of the peace, by order suspend the exhibition of any film, and during such

suspension the film shall be deemed to be an uncertified film in the Province or the district or town, as the case may be.

(2) Where an order under sub-section (1) has been issued by a District Magistrate or a Commissioner of Police, a copy thereof, together with a statement of reasons therefor, shall forthwith be forwarded by the person making the same to the Provincial Government, and the Provincial Government may either confirm or discharge the order.

(3) No order made under this section shall remain in force for more than two months, but the Provincial Government may, if it is of opinion that any such order should continue in force for a further period, refer the matter to the Central Government for decision.

(4) On receipt of any reference under sub-section (3), the Central Government may, by notification in the official Gazette, direct that the period of suspension shall be extended by such further period as it thinks fit or that the film shall be deemed to be an uncertified film in the whole or any part of the territories to which this Act extends.

8. *Penalties.*—(1) If the owner or person in charge of a cinematograph uses the same or allows it to be used, or if the owner or occupier of any place permits that place to be used, in contravention of the provisions of this Act or the rules made thereunder, or of the conditions and restrictions upon, or subject to, which any licence has been granted under this Act, he shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing offence, with a further fine which may extend to one hundred rupees for each day during which the offence continues, and his licence, if any, shall be liable to be revoked by the licensing authority.

(2) The exhibition of a film contrary to any order or direction under sub-section (5) or sub-section (7) of section 6 or section 7 shall, in the area to which such order or direction relates, be deemed to be a contravention of the conditions mentioned in sub-section (2) of section 5 and shall be punishable as provided in this section.

(3) If any person is convicted of an offence punishable under this Act committed by him in respect of any film, the convicting Court may further direct that the film shall be forfeited to the Government.

9. *Power to make rules.*—(*1*) The Central Government may make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for—

(*a*) the manner in which the Authority shall be constituted;

(*b*) the delegation of any of the powers of the Authority to such person or persons as the Authority may nominate in this behalf;

(*c*) the procedure of the Authority for examining and certifying films as suitable for public exhibition, and all matters ancillary thereto and the fees to be levied by such Authority;

(*d*) the appointment of officers subordinate to the Authority and the regulation of the powers and duties of such officers;

(*e*) the conditions subject to which any certificate may be granted under this Act or the circumstances in which any certificate shall be refused;

(*f*) the manner in which any appeal under this Act may be preferred;

(*g*) any other matter which by this Act is to be prescribed.

(*3*) The Provincial Government may make rules to provide for the regulation of cinematograph exhibitions for securing the public safety.

(*4*) All rules made under this Act shall be published in the official Gazette, and on such publication shall have effect as if enacted in this Act.

(*5*) All rules made by the Central Government under this Act shall be laid before the Dominion Legislature as soon as may be after they are made.

10. *Power to give directions.*—The Central Government may give directions to any Provincial Government as to the carrying into execution in the Province of any of the provisions contained in this Act or of any rules or orders made thereunder.

11. *Power to exempt.*—The Central Government may, by order in writing exempt, subject to such conditions and restrictions as it may impose, any cinematograph exhibition or class of cinematograph exhibitions from any of the provisions of this Act or of any rule made thereunder."

K. V. K. SUNDARAM,
*Secy. to the Govt. of India.*

No. L.D. 997—Legis. 18-49-11, dated Bangalore, 21st January 1950.

Ordered that the accompanying Indian Railways (Amendment) Act, 1949 published in the *Gazette of India*, Extraordinary, dated the 24th December 1949, be republished in *Mysore Gazette* for general information.

By Order,

B. S. PUTTASWAMY,
*Legal Remembrancer and Secretary to Government, Law Department.*

## Acts of the Dominion Legislature assented to by the Governor-General

GOVERNMENT OF INDIA.

**MINISTRY OF LAW.**

*New Delhi, the 24th December*, 1949.

The following Acts of the Dominion Legislature received the assent of the Governor-General on the 21st December, 1949 and are hereby published for general information :—

### ACT No. LVI OF 1949.

*An Act further to amend the Indian Railways Act*, 1890.

WHEREAS it is expedient further to amend the Indian Railways Act, 1890 (IX of 1890), for the purposes hereinafter appearing;

It is hereby enacted as follows :—

**1. Short title and commencement.**—(*1*) This Act may be called the Indian Railways (Amendment) Act, 1949.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, and different dates may be appointed for different provisions of this Act.

**2. Omission of section 30, Act IX, of 1890.**—In the Indian Railways Act, 1890 (hereinafter referred to as the said Act), section 30 shall be omitted.

**3. Amendment of section 31, Act IX of 1890.**—In section 31 of the said Act, for the words "the two last foregoing sections" the word and figures "section 28" shall be substituted.

**4. Substitution of new section for section 32, Act IX of 1890.**—For section 32 of the said Act, the following section shall be substituted, namely :—

"32. *Power of general controlling authority to fix terminal and other charges.*—The general controlling authority may, by general or special order, fix the rates of terminal and other charges for the whole or any part of a railway, and prescribe the conditions in which such rates will apply."

**5. Substitution of new section for section 41, Act IX of 1890.**—For section 41 of the said Act, the following section shall be substituted, namely :—

"41. *Complaints against a railway administration.*—(1) Any complaint that a railway administration—

(a) is contravening the provisions of section 28, or

(b) is charging station to station rates or wagon load rates which are unreasonsable or rates which are unreasonable owing to any condition attached to them regarding minimum weight, packing, assumption of risk or any other matter, or

(c) is levying charges (other than standardised terminal charges) which are unreasonable, or

(d) is unreasonably refusing to quote a new station to station rate, or

(e) has unreasonably placed a commodity in a higher clause, may be made to the Tribunal, and the Tribunal shall hear and decide any such complaint in accordance with the provisions of this Chapter.

(2) In the case of a complaint under clause (a) of sub-section (1),—

(i) whenever it is shown that a railway administration charges one trader or class of traders or the traders in any local area lower rates for the same or similar animals or goods, or lower rates for the same or similar services, than it charges to other traders or classes of traders, or to the traders in another local area, the burden of proving that such lower charge does not amount to an undue preference shall lie on the railway administration,

(ii) in deciding whether a lower charge does or does not amount to an undue preference, the Tribunal may, in addition to any other considerations affecting the case, take into consideration whether such lower charge is necessary in the interests of the public.

(3) In the case of a complaint under clause (d) of sub-section (1), the Tribunal may fix a new station to station rate.

(4) A complaint under this section may be made jointly against two or more railway administrations."

**6. Amendment of section 47, Act IX of 1890.**—In sub-section (1) of section 47 of the said Act, for the words "railway administered by the Government" the words "railway administered by the Central Government any Provincial Government or the Government of any Acceding State" shall be substituted.

**7. Amendment of section 72, Act IX of 1890.**—In section 72 of the said Act, sub-section (2) shall be omitted.

**8. Insertion of new section after section 72, Act IX of 1890.**—After section 72 of the said Act, the following section shall be inserted, namely :—

72A. *Execution of forwarding notes in respect of animals or goods carried on a railway.*—Any person delivering to the railway administration any animals or goods to be carried on a railway shall,—

(a) if the animals or goods are to be carried by a train intended solely for the carriage of goods, or

(b) if the goods are to be carried by any other train and consists of articles of any of the following categories, namely :—

(i) articles carried at owner's risk rates;

(ii) articles of a perishable nature;

(*iii*) articles mentioned in the Second Schedule;

(*iv*) articles defectively packed or in a defective condition;

(*v*) explosives and other dangerous goods,

execute a note (in this Act referred to as the forwarding note) in such form as may be prescribed by the railway administration and approved by the Central Government, in which the sender or his agent shall give such particulars in respect of the animals or goods so delivered as may be required."

**9. Substitution of new section for section 73, Act IX of 1890.**—For section 73 of the said Act, the following section shall be substituted, namely:—

"73. *Further provision with respect to the Liability of a railway administration as a carrier of animals.*—(*1*) The responsibility of a railway administration under section 72 for the loss, destruction or deterioration of any animal delivered to the administration for carriage by railway shall not exceed the amount respectively specified in column two against the item relating to the animal in column one of the First Schedule, unless the person delivering the animal to the railway administration declares in writing a higher value in the forwarding note and has paid or engaged to pay to the railway administration a percentage specified by it upon the excess of the value so declared over the respective sums mentioned in the second column of the said Schedule.

(*2*) Where such higher value has been declared, the railway administration may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

(*3*) Nothing contained in this section shall render the railway administration liable for any damage or loss arising from fright or restiveness of the animal."

**10. Insertion of new sections after section 74, Act IX of 1890.**—After section 74 of the said Act, the following sections shall be inserted, namely:—

"74A. *Liability of a railway administration for goods in defective condition or defectively packed.*—(*1*) When any goods tendered to a railway administration for carriage by railway—

(*a*) are in a defective condition as a consequence of which they are liable to deterioration, leakage, wastage or damage in transit, or

(*b*) are either defectively packed or packed in a manner not in accordance with the general or special order, if any, issued under sub-section, (2) and, as a result of such defective or improper packing, are liable to leakage, wastage or damage in transit,

and the fact of such condition or defective or improper packing has been recorded by the sender or his agent in the forwarding note, the railway administration shall not be responsible for any deterioration, leakage, wastage or damage, or for the condition in which such goods are available for delivery at destination, except upon proof of negligence or misconduct on the part of the railway administration or of any of its servants.

(*2*) The general controlling authority may, by general or special order, prescribe the manner in which goods tendered to a railway administration for carriage by railway shall be packed.

74B. *Liability of a railway administration for goods carried in open vehicles.*—When any goods which, under ordinary circumstances, would be carried in covered vehicles or vessels and would be liable to damage if carried otherwise, are, at the request of the sender or his agent recorded in the forwarding note, tendered for carriage by railway in open vehicles or vessels, the railway administration shall not be responsible for any destruction, deterioration or damage which may arise only by reason of the goods being so carried.

74C. *Liability of a railway administration for animals or goods carried at owner's risk rate.*—(*1*) When any animals or goods are tendered to a railway administration for carriage by railway and the railway administration provides for the carriage of such animals or goods either at the ordinary tariff rate (in this Act referred to as the railway risk rate) or in the alternative at a special reduced rate (in this Act referred to as the owner's risk rate), the animals or goods shall be deemed to have been tendered to be carried at owner's risk rate, unless the sender or his agent elects in writing to pay the railway risk rate.

(*2*) Where the sender or his agent elects in writing to pay the railway risk rate under sub-section (1), the railway administration shall issue a certificate to the consignor to that effect.

(*3*) When any animals or goods are carried or are deemed to be carried at owner's risk rate, a railway administration shall not be responsible for any loss, destruction or deterioration of or damage to such goods from any cause whatsoever except upon proof that such loss, destruction, deterioration or damage was due to negligence or

misconduct on the part of the railway administration or of any of its servants.

74D. *Burden of proving misconduct where goods carried at owner's risk rate are not delivered to the consignee or are pilfered in transit.*—Notwithstanding anything contained in section 74C,—

(*a*) where the whole of a consignment of goods or the whole of any package forming part of a consignment carried at owner's risk rate is not delivered to the consignee and such non-delivery is not proved by the railway administration to have been due to any accident to the train or to fire, or

(*b*) where, in respect of any consignment of goods or of any package which had been so covered or protected that the covering or protection was not readily removable by hand, it is pointed out to the railway administration on or before delivery that any part of such consignment or package had been pilfered in transit,

the railway administration shall be bound to disclose to the consignor how the consignment or package was dealt with throughout the time it was in its possession or control, but if negligence or misconduct on the part of the railway administration or of any of its servants cannot be fairly inferred from such disclosure, the burden of proving such negligence or misconduct shall lie on the consignor.

74E. *Liability of two or more railway administrations for through traffic,*—When any animals or goods tendered to a railway administration for carriage by railway have been booked through over the railways of two or more railway administrations or over one or more railway administrations and one or more transport systems not belonging to any railway administration, the person tendering the animals or goods to the railway administration shall be deemed to have contracted with each one of the railway administrations or the owners of the transport systems concerned, as the case may be, that the provisions of sections 73, 74A, 74B, 74C, 74D and 75 shall apply, so far as may be, in relation to the carriage of such animals or goods in the same manner and to the same extent as they would have applied if the animals or goods had been carried over only one railway administration:

Provided that—

(*i*) where there is a deviation in the route by which the animals or goods are to be carried, such deviation was due to a cause over which the railway administration, or the owner of the

transport system concerned, as the case may be, had no control;

(*ii*) for the purpose of making the provisions of section 74C or section 74D applicable, the benefit of the railway risk rate and the owner's risk rate was available in the alternative to the sender on each of the railway administrations or transport systems concerned at the time of the tender."

**11. Amendment of section 75, Act IX of 1890.**—In section 75 of the said Act,—

(*i*) in sub-section (1) for the words "to be declared or declared them at the time of the delivery of the parcel or package for carriage by railway and, if so required by the administration paid or engaged to pay a percentage on the value so declared by way of compensation for increased risk", the words "to be declared in writing or declared them in writing at the time of the delivery of the parcel or package for carriage by railway, and if so required by the administration, paid or engaged to pay in writing a percentage on the value so declared by way of compensation for increased risk" shall be substituted;

(*ii*) in sub-section (2), the words "and the burden of proving the value so declared to have been the true value shall, notwithstanding anything in the declaration, lie on the person claiming the compensation" shall be omitted.

**12. Substitution of new section for section 76, Act IX of 1890.**—For section 76 of the said Act, the following section shall be substituted, namely:—

"76. *Burden of proof in suits for compensation.*—In any suit against a railway administration for compensation for any delay, loss, destruction, deterioration or damage, the burden of proving—

(*a*) in the case of animals, the value thereof, or the higher value declared under section 73, and, where the animal has been injured, the extent of the injury; or

(*b*) in the case of any parcel or package the value of which has been declared under section 75, that the value so declared is its true value, shall lie on the person claiming the compensation, but, subject to the other provisions contained in this Act, it shall not be necessary for him to prove how the delay, loss, destruction, deterioration or damage was caused."

**13. Insertion of new sections after section 82A, Act IX of 1980.**—In Chapter VII of the said Act, after section 82A, the following sections shall be inserted, namely :—

"82B. *Claims Commissioners.*—The Central Government may, by notification in the official Gazette, appoint any person to be a Claims Commissioner for such local area as may be specified in the notification.

82C. *Application for compensation.*—(*1*) An application for compensation under section 82A arising out of any accident of the nature specified therein may be made—

(*a*) by the person who has sustained the injury or suffered any loss, or

(*b*) by any agent duly authorised by such person in this behalf, or

(*c*) where such person is a minor, by his guardian, and

(*d*) where death has resulted from the accident, by any dependant of the deceased.

(*2*) No application for compensation under this section shall be entertained unless it is made within three months of the occurrence of the accident, but the Claims Commissioner may on good cause shown allow any application to be made at any time within one year of such occurrence.

(*3*) If in an application for compensation under this section, any person makes a statement which is false and which he knows or believes to be false or does not belive to be true, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

*Explanation.*—In this section, the word "dependant" has the meaning assigned to it in clause (*d*) of section 2 of the Workmen's Compensation Act, 1923 (VIII of 1923).

82D. *Procedure and powers of Claims Commissioners.*—(*1*) In inquiring into and determining any claim for compensation payable under section 82A, the Claims Commissioner may, subject to any rules that may be made in this behalf, follow such summary procedure as he thinks fit.

(*2*) The Claims Commissioner shall have all the powers of a Civil Court for the purpose of taking evidence on oath (which the Claims Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the discovery and production

of documents and material objects and the Claims Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (Act V of 1898).

(3) Subject to any rules that may be made in this behalf, the Claims Commissioner may, for the purpose of determining any claim for compensation choose one or more persons possessing special knowledge of any matter relevant to the inquiry to assist him in holding the inquiry.

82E. *Interim orders for compensation.*—(1) Where, in the opinion of the Claims Commissioner, circumstances exist which require relief to be afforded to an applicant for compensation immediately, he may, pending determination of the actual amount of compensation payable, direct the railway administration to deposit with him forthwith such sum as he considers reasonable for affording such relief:

Provided that the Claims Commissioner is satisfied, that—

(i) no grounds exist for doubting the correctness of the facts stated by the applicant;

(ii) on the facts so stated, if proved, the applicant would be entitled to compensation; and

(iii) the amount of compensation directed to be paid under this section is not likely to exceed the actual amount of compensation that may ultimately become payable.

(2) Any sum directed to be paid under sub-section (1) by way of *interim* payment shall be deducted from the amount of compensation that may ultimately become payable.

82F. *Liability to pay compensation, etc., to be decided by Claims Commissioners.*—(1) Any question as to the liability of the railway administration to pay compensation, under section 82A, or as to the amount thereof, or as to the person to whom such compensation is payable, shall be decided by the Claims Commissioner.

(2) Any person aggrieved by a decision of the Claims Commissioner refusing to grant compensation, or as to the amount of compensation granted to him, may prefer an appeal to the High Court having jurisdiction in the place where the accident occurred:

Provided that nothing in this sub-section shall be deemed to authorise the High Court to grant compensation in excess of the limit specified in section 82A.

(3) The period of limitation for an appeal under this section shall be ninety days.

(4) The provisions of section 5 of the Indian Limitation Act, 1908 (IX of 1908), shall be applicable to appeals under this section.

(5) Subject to the decision of the High Court in cases in which an appeal is preferred under sub-section (1), the decision of the Claims Commissioner on any question referred to in sub-section (1) shall be final and shall not be called in question in any Court.

82G. *Recovery and payment of compensation.*—(1) A railway administration shall comply with an order for compensation, including an *interim* order for compensation under section 82E forthwith by depositing the amount of the compensation with the Claims Commissioner.

(2) Where any compensation has been deposited as required by sub-section (1), the railway administration shall, notwithstanding anything in any other law for the time being in force, be discharged from all liability to any person whatsoever in respect of any compensation so deposited.

(3) Any compensation deposited with the Claims Commissioner under section 82E or this section shall, with the least possible delay, be paid to the applicant for compensation to whom it is payable.

(4) Where there are more applications than one for compensation, the compensation may be apportioned amongst the applicants in such manner as the Claims Commissioner thinks fit, or may be allotted to the applicant who in the opinion of the Claims Commissioner is best entitled thereto:

Provided that the Claims Commissioner shall in any case in which he proposes to proceed under this sub-section require as a condition precedent to the granting of compensation that the person to whom the compensation is to be paid shall give to the Claims Commissioner a bond with one or two sureties, or other sufficient security, for rendering an account of the compensation received by him and for indemnity of persons who may be entitled to the whole or any part of the compensation.

(5) The Claims Commissioner may, on application made to him by petition and on cause shown to his satisfaction, and upon such terms as he thinks fit, assign the bond or other security given under sub-section (4) to some proper person, and that person shall thereupon be entitled to sue thereon in his own name as if it had been originally given to him instead of to the Claims Commissioner, and to recover,

as trustee for all persons interested, such amount as may be recoverable thereunder.

82H. *Saving as to certain rights.*—Nothing contained in the foregoing sections relating to the right of any person to claim compensation under section 82A shall affect the right of any such person to recover any compensation payable under the Workmen's Compensation Act, 1923 (VIII of 1923), or any other law for the time being in force or under any contract or scheme providing for payment of compensation for death or personal injury or for damage to property or any sum payable under any policy of insurance.

82I *Bar of certain legal proceedings.*—No suit, procecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of sections 82A to 82H inclusive or of any rules made under section 82J.

82J. *Power to make rules.*—(*1*) The Central Government may, by notification in the official Gazette, make rules to carry out the objects of sections 82A to 82H inclusive.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(*i*) the qualifications and conditions of service of Claims Commissioners;

(*ii*) the nature of the injury for which and the rates at which compensation shall be payable;

(*iii*) the rates at which compensation shall be payable for death or total disablement;

(*iv*) the manner in which claims for compensation may be inquired into and determined by the Claims Commissioner;

(*v*) the matters in respect of which any person may be chosen to assist the Claims Commissioner under section 82D, and the functions exercisable by such person;

(*vi*) generally for the effective exercise of any powers conferred on the Claims Commissioner."

(*3*) All rules made under this section shall be laid before the Dominion Legislature as soon as may be after they are made."

**14. Amendment of section 106, Act IX of 1890.**—In section 106 of the said Act, for the words "ten rupees" the words "fifty rupees" shall be substituted.

**15. Substitution of new section for section 114, Act IX of 1890.**—For section 114 of the said Act, the following section shall be substituted, namely—

"114. *Penalty for transferring season ticket or any half of a return ticket.*—If a person sells or attempts to sell, or parts or attempts to part with the possession of, any season ticket or any half of a return ticket, in order to enable any other person to travel therewith, or purchases such season ticket or half of a return ticket, he shall be punishable with fine which may extend two hundred rupees, and if the purchaser of such season ticket or half of a return ticket, travels or attempts to travel therewith, he shall be punishable with an additional fine which may extend to the amount of the single fare for the journey authorised by the ticket."

**16. Insertion of First Schedule in Act IX of 1890.**—In the said Act, the following shall be inserted as the First Schedule, namely :—

"THE FIRST SCHEDULE.

(*See* section 73.)

*Limits of responsibility of railway administration for loss, destruction or deterioration of animals when higher value has not been declared in the forwarding note.*

| (1) *Description of animals* | (2) *Limit of responsibility of railway administration.* |
|---|---|
| Elephants .... .... | Rs. 1,500 per head. |
| Horses .... ..... | Rs. 750 per head. |
| Mules, horned cattle or camels .... | Rs. 200 per head. |
| Dogs, donkeys, gots, pigs, sheep or other animals not mentioned above, or birds. | Rs. 30 per head. |

K. V. K. SUNDARAM,
*Secretary.*

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# The Mysore Gazette

(PUBLISHED BY AUTHORITY)

EXTRAORDINARY

BANGALORE, THURSDAY, FEBRUARY 16, 1950.

## PART IV

### Section 1-C

### NOTIFICATIONS, RULES, ORDERS, ETC., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

## MYSORE PUBLIC SERVICE COMMISSION REGULATION, 1950.

No. L.D. 1088—Legis. 39-49-1, dated Bangalore, the 16th February 1950.

In exercise of the powers conferred by article 318 of the Constitution of India, the Rajpramukh of Mysore, His Highness the Maharaja, is pleased to make the following regulation :—

### PART I

#### PRELIMINARY

1. (1) This regulation may be called the Mysore Public Service Commission Regulation, 1950.

(2) It shall come into force at once.

2. In this regulation, unless there is anything repugnant in the subject or context—

(a) "Constitution" means the Constitution of India ;

(b) "Commission" means the Mysore Public Service Commission established under the Constitution ;

(c) "Member" means a Member of the Commission and includes the Chairman thereof.

## PART II

### COMPOSITION, CONDITIONS OF SERVICE, ETC., OF THE COMMISSION AND ITS STAFF.

**3.** The Commission shall consist of a Chairman and two other Members.

**4.** There shall be paid to the Chairman a salary calculated at the rate of one thousand and five hundred rupees per mensem and to each of the other Members a salary calculated at the rate of one thousand and two hundred rupees per mensem.

Provided that a Member, who on the date of entering on his duties as such was in the service of the Government of the State, shall be paid the salary and allowances to which he would otherwise be entitled from time to time in such service;

Provided further that a Chairman or any other Member who is a retired Government servant shall not be entitled to draw a salary in addition to his pension, more than the salary fixed in this clause for a Chairman or Member as the case may be.

**5.** (1) A Member who on the date of entering on his duties as such was in a service of or held a post under the Union or a State shall, until he retires from such service or post, continue to be governed by the leave rules applicable to him in such service or post and his service as Member shall count for leave in accordance with those rules. After such retirement, he shall be governed in respect of leave by sub-clause (2) of this clause as if he were a Member who had entered on his duties as such immediately after such retirement.

(2) A Member who on the date of entering on his duties as such was not in the service of the Union or a State may be granted leave as follows:—

(a) Leave on leave salary equivalent to full pay up to one-eleventh of the period spent on duty as a Member, subject to a maximum of three months at any one time and subject to a maximum leave salary of one thousand and five hundred rupees per mensem in the case of the Chairman

and one thousand and two hundred rupees per mensem in the case of any other Member.

(b) Leave on medical certificate on leave salary equivalent to half pay up to a total period of two months.

(c) Extraordinary leave without allowances, subject to a maximum of two months at any one time.

*Explanation.*—More than one kind of leave mentioned in this clause may be granted in combination at any one time.

Provided that a Member who enters on his duties as such immediately after his retirement from a service of or a post under, the Union or a State shall be entitled to carry forward the leave which remained to his credit at the time of such retirement up to a maximum of six months expressed in terms of leave on average pay and to take that leave, on such terms and on such conditions as were admissible under the rules in accordance with which it was earned, in combination with any or all of the kinds of leave mentioned in this clause.

**6.** A member shall be entitled to travelling allowance for journeys made by him in the performance of his functions at the rates, and subject to the conditions, specified in the Mysore Service Regulations as in force from time to time.

For the purposes of the Mysore Service Regulations, the Chairman of the Commission shall be the head of a department in respect of other Members of the Commission.

**7.** No pension shall attach to the office of a Member as such, but in the case of a Member who at the date of his appointment was in the service of the Union or a State the period of his service as Member shall, until he retires from such service, count for pension under the rules applicable to the service to which he belongs. After such retirement he shall be entitled to the salary specified in clause 4 as if he were a Member who had entered on his duties as such immediately after such retirement.

**8.** There shall be a Secretary to the Commission who shall be appointed by the Commission with the previous approval of the Rajpramukh.

**9.** (1) There shall be paid to the Secretary, a monthly salary calculated at the scale of Rs. 300—25—500.

(2) The initial salary of a person appointed as Secretary to the Commission shall be fixed in accordance with the provisions of Mysore Service Regulations for the time being in force, and the previous sanction of the Rajpramukh shall be necessary for fixing the initial salary of any such person otherwise than in accordance with those rules.

(3) The Commission shall not, without the previous sanction of the Rajpramukh grant any premature increment of pay to a person holding the post of Secretary.

**10.** Subject to the provisions of clause 9, the Secretary to the Commission shall, in the matter of his pay, allowances including travelling allowances, leave, leave salary, pensions and other conditions of service be governed by the Mysore Service Regulations and the Public Servants' Conduct Rules for the time being in force.

For the purpose of the above Regulation and rules the Chairman of the Commission shall be head of the department, provided that he may delegate such functions as he deems fit to any other Member.

**11.** (1) Subject to the provisions of clause 12, the Commission may in its discretion employ, in addition to the Secretary, such persons as it may deem necessary for the effective discharge of its functions and on such scales of pay as it may determine.

(2) The initial salary of any person so employed shall be fixed in accordance with the provisions of the Mysore Service Regulations for the time being in force and the previous sanction of the Rajpramukh shall be necessary for fixing the initial salary of any such person otherwise than in accordance with those Regulations.

(3) The conditions of service of persons employed by the Commission under this clause shall, save as expressly provided therein, be the same as those prescribed by the State Government in respect of Government servants holding corresponding appointments elsewhere than in the office of the Commission.

(4) The Chairman shall be the person competent to make appointments, promotions and transfers subject to the provisions of the Mysore Service Regulations and to sanction leave, travelling allowance and pension in

respect of all members of the staff of the Commission other than the Secretary.

**12.** The Commission may, and it is hereby empowered to, incur expenditure in any financial year up to an aggregate sum determined by the State Government from time to time,—

(*a*) for the employment of the persons whom it is authorised to employ under clause 11 ;

(*b*) towards contingencies, supplies and services ; and

(*c*) towards other expenses connected with its work including the travelling allowances of the members of the Commission, the Secretary, and other Members of its staff.

**13.** In respect of any matter for which special provision is not made by this regulation, the conditions of service of a person serving as a member of the Commission or of its staff shall be governed by the rules and orders applicable to such classes of Government Servants as shall be specified by the Rajpramukh.

**14.** Until the Commission appoints the Members of the staff under clauses 8 and 11, persons who immediately prior to the commencement of this Regulation were members of the staff of the office of the Public Service Commissioner in Mysore shall continue to be members of the staff of the Commission.

JAYA CHAMARAJA WADIYAR.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Legal Remembrancer and*
*Secretary to Government,*
*Law Department.*

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## PART IV

### Section I-C

**NOTIFICATIONS, RULES, ORDERS, Etc., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.**

### NOTIFICATION.

(HOME DEPARTMENT.)

No. H. 11452—Ptl. 23-49-1, dated Bangalore, 31st January 1950.

The Constitution of India, as passed by the Constituent Assembly, authenticated by the President of the Assembly on 26th January 1950, is hereby re-published for general information.

### THE CONSTITUTION OF INDIA.

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN DEMOCRATIC REPUBLIC and to secure to all its citizens: Preamble.

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

## PART I

## THE UNION AND ITS TERRITORY.

Name and territory of the Union.

1. (1) India, that is Bharat, shall be a Union of States.

(2) The States and the territories thereof shall be the States and their territories specified in Parts A, B and C of the First Schedule.

(3) The territory of India shall comprise—

(*a*) the territories of the States;

(*b*) the territories specified in Part D of the First Schedule; and

(*c*) such other territories as may be acquired.

Admission or establishment of new States.

2. Parliament may by law admit into the Union, or establish, new States on such terms and conditions as it thinks fit.

Formation of new States and alteration of areas, boundaries or names of existing States.

3. Parliament may by law—

(*a*) form a new State by separation of territory from any State or by uniting two or more States or parts of States or by uniting any territory to a part of any State;

(*b*) increase the area of any State;

(*c*) diminish the area of any State;

(*d*) alter the boundaries of any State;

(*e*) alter the name of any State:

Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the boundaries of any State or States specified in Part A or Part B of the First Schedule or the name or names of any such State or States, the views of the Legislature of the State or, as the case may be, of each of the States both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President.

Laws made under articles 2 and 3 to provide for the amendment of the First and the Fourth Schedules and supplemental, incidental, and consequential matters.

4. (1) Any law referred to in article 2 or article 3 shall contain such provisions for the amendment of the First Schedule and the Fourth Schedule as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions (including provisions as to representation in Parliament and in the Legislature or Legislatures of the State or States affected by such law) as Parliament may deem necessary.

(2) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.

## PART II

## CITIZENSHIP.

Citizenship at the commencement of the Constitution.

5. At the commencement of this Constitution, every person who has his domicile in the territory of India and—

(*a*) who was born in the territory of India ; or

(*b*) either of whose parents was born in the territory of India ; or

(*c*) who has been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement,

shall be a citizen of India.

Rights of citizenship of certain persons who have migrated to India from Pakistan.

6. Notwithstanding anything in article 5, a person who has migrated to the territory of India from the territory now included in Pakistan shall be deemed to be a citizen of India at the commencement of this Constitution if—

(*a*) he or either of his parents or any of his grandparents was born in India as defined in the Government of India Act, 1935 (as originally enacted) ; and

(*b*) (i) in the case where such person has so migrated before the nineteenth day of July, 1948, he has been ordinarily resident in the territory of India since the date of his migration, or

(ii) in the case where such person has so migrated on or after the nineteenth day of July, 1948, he has been registered as a citizen of India by an officer appointed in that behalf by the Government of the Dominion of India on an application made by him therefor to such officer before the commencement of this Constitution in the form and manner prescribed by that Government :

Provided that no person shall be so registered unless he has been resident in the territory of India for at least six months immediately preceding the date of his application.

Rights of citizenship of certain migrants to Pakistan.

7. Notwithstanding anything in articles 5 and 6, a person who has after the first day of March, 1947, migrated from the territory of India to the territory now included in Pakistan shall not be deemed to be a citizen of India :

Provided that nothing in this article shall apply to a person who, after having so migrated to the territory now included in Pakistan, has returned to the territory of India under a permit for resettlement or permanent return issued by or under the authority of any law and every such person shall for the purposes of clause (*b*) of article 6 be deemed to have migrated to the territory of India after the nineteenth day of July 1948.

## PART II.

Rights of citizenship of certain persons of Indian origin residing outside India.

8. Notwithstanding anything in article 5, any person who or either of whose parents or any of whose grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted), and who is ordinarily residing in any country outside India as so defined shall be deemed to be a citizen of India if he has been registered as a citizen of India by the diplomatic or consular representative of India in the country where he is for the time being residing on an application made by him therefor to such diplomatic or consular representative, whether before or after the commencement of this Constitution, in the form and manner prescribed by the Government of the Dominion of India or the Government of India.

Persons voluntarily acquiring citizenship of a foreign State not to be citizens.

9. No person shall be a citizen of India by virtue of article 5, or be deemed to be a citizen of India by virtue of article 6 or article 8, if he has voluntarily acquired the citizenship of any foreign State.

Continuance of the rights of citizenship.

10. Every person who is or is deemed to be a citizen of India under any of the foregoing provisions of this Part shall, subject to the provisions of any law that may be made by Parliament, continue to be such citizen.

Parliament to regulate the right of citizenship by law.

11. Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship.

## PART III.

## FUNDAMENTAL RIGHTS.

### GENERAL.

Definition.

12. In this Part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

Laws inconsistent with or in derogation of the fundamental rights.

13. (1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

(3) In this article, unless the context otherwise requires,—

(*a*) "law" includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;

(*b*) "laws in force" includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.

RIGHT TO EQUALITY.

Equality before law.

14. The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

15. (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—

(*a*) access to shops, public restaurants, hotels and places of public entertainment; or

(*b*) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

Equality of opportunity in matters of public employment.

16. (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence, or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under any State specified in the First Schedule or any local or other authority within its territory, any requirement as to residence within that State prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

Abolition of Untouchability.

17. "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.

Abolition of titles.

18. (1) No title, not being a military or academic distinction, shall be conferred by the State.

(2) No citizen of India shall accept any title from any foreign State.

(3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.

(4) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument or office of any kind from or under any foreign State.

RIGHT TO FREEDOM.

Protection of certain rights regarding freedom of speech, etc.

19. (1) All citizens shall have the right—

(*a*) to freedom of speech and expression;

(*b*) to assemble peaceably and without arms;

(*c*) to form associations or unions;

(*d*) to move freely throughout the territory of India;

(*e*) to reside and settle in any part of the territory of India;

(*f*) to acquire, hold and dispose of property; and

(*g*) to practise any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (*a*) of clause (1) shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to, libel, slander, defamation, contempt of court or any matter which offends against decency or morality or which undermines the security of, or tends to overthrow, the State.

(3) Nothing in sub-clause (*b*) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(4) Nothing in sub-clause (*c*) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(5) Nothing in sub-clauses (*d*), (*e*) and (*f*) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

(6) Nothing in sub-clause (*g*) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it prescribes or empowers any authority to prescribe, or prevent the State from making any law prescribing or empowering any authority to prescribe, the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business.

Protection in respect of conviction for offences.

20. (1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted and punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself.

Protection of life and personal liberty.

21. No person shall be deprived of his life or personal liberty except according to procedure established by law.

Protection against arrest and detention in certain cases.

22. (1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply—

(*a*) to any person who for the time being is an enemy alien; or

(*b*) to any person who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall authorize the detention of a person for a longer period than three months unless—

(*a*) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention;

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (*b*) of clause (7); or

(*b*) such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (*a*) and (*b*) of clause (7).

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.

(7) Parliament may by law prescribe—

(*a*) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (*a*) of clause (4);

(*b*) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and

(*c*) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (*a*) of clause (4).

## RIGHT AGAINST EXPLOITATION.

Prohibition of traffic in human beings and forced labour.

23. (1) Traffic in human beings and *begar* and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

Prohibition of employment of children in factories etc.

24. No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

*Part III.—Fundamental Rights.—Arts. 25-28.*

RIGHT TO FREEDOM OF RELIGION.

Freedom of conscience and free profession, practice and propagation of religion.

25. (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(*a*) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(*b*) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

*Explanation I.*—The wearing and carrying of *kirpans* shall be deemed to be included in the profession of the Sikh religion.

*Explanation II.*—In sub-clause (*b*) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina, or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

Freedom to manage religious affairs.

26. Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

(*a*) to establish and maintain institutions for religious and charitable purposes;

(*b*) to manage its own affairs in matters of religion;

(*c*) to own and acquire movable and immovable property; and

(*d*) to administer such property in accordance with law.

Freedom as to payment of taxes for promotion of any particular religion.

27. No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

Freedom as to attendance at religious instruction or religious worship in certain educational institutions.

28. (1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds.

(2) Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.

(3) No person attending any educational institution recognized by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious

worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

CULTURAL AND EDUCATIONAL RIGHTS.

Protection of interests of minorities.

29. (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

Right of minorities to establish and administer educational institutions.

30. (1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

RIGHT TO PROPERTY.

Compulsory acquisition of property.

31. (1) No person shall be deprived of his property save by authority of law.

(2) No property, movable or immovable, including any interest in, or in any company owning, any commercial or industrial undertaking, shall be taken possession of or acquired for public purposes under any law authorizing the taking of such possession or such acquisition, unless the law provides for compensation for the property taken possession of or acquired and either fixes the amount of the compensation, or specifies the principles on which, and the manner in which, the compensation is to be determined and given.

(3) No such law as is referred to in clause (2) made by the Legislature of a State shall have effect unless such law, having been reserved for the consideration of the President, has received his assent.

(4) If any Bill pending at the commencement of this Constitution in the Legislature of a State has, after it has been passed by such Legislature, been reserved for the consideration of the President and has received his assent, then, notwithstanding anything in this Constitution, the law so assented to shall not be called in question in any court on the ground that it contravenes the provisions of clause (2).

(5) Nothing in clause (2) shall affect—

(*a*) the provisions of any existing law other than a law to which the provisions of clause (6) apply, or

(*b*) the provisions of any law which the State may hereafter make—

(*i*) for the purpose of imposing or levying any tax or penalty, or

(*ii*) for the promotion of public health or the prevention of danger to life or property, or

(*iii*) in pursuance of any agreement entered into between the Government of the Dominion of India or the Government of India and the Government of any other country, or otherwise, with respect to property declared by law to be evacuee property.

(6) Any law of the State enacted not more than eighteen months before the commencement of this Constitution may within three months from such commencement be submitted to the President for his certification; and thereupon, if the President by public notification so certifies, it shall not be called in question in any court on the ground that it contravenes the provisions of clause (2) of this article or has contravened the provisions of sub-section (2) of section 299 of the Government of India Act, 1935.

## RIGHT TO CONSTITUTIONAL REMEDIES.

Remedies for enforcement of rights conferred by this Part.

32. (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus, mandamus,* prohibition, *quo warranto* and *certiorari,* whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.

(3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

Power to Parliament to modify the rights conferred by this Part in their application to forces.

33. Parliament may by law determine to what extent any of the rights conferred by this Part shall, in their application to the members of the Armed Forces or the Forces charged with the maintenance of public order, be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

Restriction on rights conferred by this Part while martial law is in force in any area.

34. Notwithstanding anything in the foregoing provisions of this Part, Parliament may by law indemnify any person in the service of the Union or of a State or any other person in respect of any act done by him in connection with the maintenance or restoration of order in any area within the territory of India where martial law was in force or validate any sentence passed, punishment inflicted, forfeiture ordered or other act done under martial law in such area.

Legislation to give effect to the provisions of this Part.

35. Notwithstanding anything in this Constitution—

(*a*) Parliament shall have, and the Legislature of a State shall not have, power to make laws—

(*i*) with respect to any of the matters which under clause (3) of article 16, clause (3) of article 32, article 33 and article 34 may be provided for by law made by Parliament; and

(*ii*) for prescribing punishment for those acts which are declared to be offences under this Part;

and Parliament shall, as soon as may be after the commencement of this Constitution, make laws for prescribing punishment for the acts referred to in sub-clause (ii);

(*b*) any law in force immediately before the commencement of this Constitution in the territory of India with respect to any of the matters referred to in sub-clause (i) of clause (*a*) or providing for punishment for any act referred to in sub-clause (ii) of that clause shall, subject to the terms thereof and to any adaptations and modifications that may be made therein under article 372, continue in force until altered or repealed or amended by Parliament.

*Explanation.*—In this article, the expression "law in force" has the same meaning as in article 372.

## PART IV.

## DIRECTIVE PRINCIPLES OF STATE POLICY.

Definition.

36. In this Part, unless the context otherwise requires, "the State" has the same meaning as in Part III.

Application of the principles contained in this Part.

37. The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

State to secure a social order for the promotion of welfare of the people.

38. The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

*Part IV.—Directive Principles of State Policy.—Arts.* 39-44.

39. The State shall, in particular, direct its policy towards securing— Certain principles of policy to be followed by the State.

(*a*) that the citizens, men and women equally, have the right to an adequate means of livelihood;

(*b*) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(*c*) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(*d*) that there is equal pay for equal work for both men and women;

(*e*) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

(*f*) that childhood and youth are protected against exploitation and against moral and material abandonment.

40. The State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. Organisation of village panchayats.

41. The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want. Right to work, to education and to public assistance in certain cases.

42. The State shall make provision for securing just and humane conditions of work and for maternity relief. Provision for just and humane conditions of work and maternity relief.

43. The State shall endeavour to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas. Living wage, etc., for workers.

44. The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India. Uniform civil code for the citizens.

Provision for free and compulsory education for children.

45. The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

Promotion of educational and economic interests of Scheduled castes, scheduled Tribes and other weaker sections.

46. The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

Duty of the State to raise the level of nutrition and the standard of living and to improve public health.

47. The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

Organisation of agriculture and animal husbandry.

48. The State shall endeavour to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

Protection of monuments and places and objects of national importance.

49. It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by Parliament by law to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.

Separation of judiciary from executive.

50. The State shall take steps to separate the judiciary from the executive in the public services of the State.

Promotion of international peace and security.

51. The State shall endeavour to—

(*a*) promote international peace and security;

(*b*) maintain just and honourable relations between nations;

(*c*) foster respect for international law and treaty obligations in the dealings of organized peoples with one another; and

(*d*) encourage settlement of international disputes by arbitration.

# PART V.

## THE UNION.

### CHAPTER I.—THE EXECUTIVE.

*The President and Vice-President.*

52. There shall be a President of India. The President of India.

53. (1) The executive power of the Union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution. Executive power of the Union.

(2) Without prejudice to the generality of the foregoing provision, the supreme command of the Defence Forces of the Union shall be vested in the President and the exercise thereof shall be regulated by law.

(3) Nothing in this article shall—

(*a*) be deemed to transfer to the President any functions conferred by any existing law on the Government of any State or other authority; or

(*b*) prevent Parliament from conferring by law functions on authorities other than the President.

54. The President shall be elected by the members of an electoral college consisting of— Election of President.

(*a*) the elected members of both Houses of Parliament; and

(*b*) the elected members of the Legislative Assemblies of the States.

55. (1) As far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President. Manner of election of President.

(2) For the purpose of securing such uniformity among the States *inter se* as well as parity between the States as a whole and the Union, the number of votes which each elected member of Parliament and of the Legislative Assembly of each State is entitled to cast at such election shall be determined in the following manner:—

(*a*) every elected member of the Legislative Assembly of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of the elected members of the Assembly;

(*b*) if, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in sub-clause (*a*) shall be further increased by one;

(*c*) each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislative Assemblies of the States under sub-clauses (*a*) and (*b*) by the total number of the elected members of both Houses of Parliament, fractions exceeding one-half being counted as one and other fractions being disregarded.

(3) The election of the President shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

*Explanation.*—In this article, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

Term of office of President.

56. (1) The President shall hold office for a term of five years from the date on which he enters upon his office:

Provided that—

(*a*) the President may, by writing under his hand addressed to the Vice-President, resign his office;

(*b*) the President may, for violation of the Constitution, be removed from office by impeachment in the manner provided in article 61;

(*c*) the President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(2) Any resignation addressed to the Vice-President under clause (*a*) of the proviso to clause (1) shall forthwith be communicated by him to the Speaker of the House of the People.

Eligibility for re-election.

57. A person who holds, or who has held, office as President shall, subject to the other provisions of this Constitution, be eligible for re-election to that office.

Qualifications for election as President.

58. (1) No person shall be eligible for election as President unless he—

(*a*) is a citizen of India,

(*b*) has completed the age of thirty-five years, and

(*c*) is qualified for election as a member of the House of the People.

(2) A person shall not be eligible for election as President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

*Explanation.*—For the purposes of this article, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor or Rajpramukh or Uparajpramukh of any State or is a Minister either for the Union or for any State.

**Conditions of President's office.**

59. (1) The President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as President.

(2) The President shall not hold any other office of profit.

(3) The President shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

(4) The emoluments and allowances of the President shall not be diminished during his term of office.

**Oath or affirmation by the President.**

60. Every President and every person acting as President or discharging the functions of the President shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of India or, in his absence, the senior-most Judge of the Supreme Court available, an oath or affirmation in the following form, that is to say—

"A. B., do $\frac{\text{swear in the name of God}}{\text{solemnly affirm}}$ that I will faithfully execute the office of President (or discharge the functions of the President) of India and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of India."

**Procedure for impeachment of the President.**

61. (1) When a President is to be impeached for violation of the Constitution, the charge shall be preferred by either House of Parliament.

(2) No such charge shall be preferred unless—

(*a*) the proposal to prefer such charge is contained in a resolution which has been moved after at least fourteen days' notice in writing signed by not less than one-fourth of the total number of members of the House has been given of their intention to move the resolution, and

(*b*) such resolution has been passed by a majority of not less than two-thirds of the total membership of the House.

(3) When a charge has been so preferred by either House of Parliament, the other House shall investigate the charge or cause the charge to be investigated and the President shall have the right to appear and to be represented at such investigation.

(4) If as a result of the investigation a resolution is passed by a majority of not less than two-thirds of the total membership of the House by which the charge was investigated or caused to be investigated, declaring that the charge preferred against the President has been sustained, such resolution shall have the effect of removing the President from his office as from the date on which the resolution is so passed.

Time of holding election to fill vacancy in the office of President and the term of office of person elected to fill casual vacancy.

62. (1) An election to fill a vacancy caused by the expiration of the term of office of President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after, and in no case later than six months from, the date of occurrence of the vacancy; and the person elected to fill the vacancy shall, subject to the provisions of article 56, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

The Vice-President of India.

63. There shall be a Vice-President of India.

The Vice-President to be *ex-officio* Chairman of the Council of States.

64. The Vice-President shall be *ex-officio* Chairman of the Council of States and shall not hold any other office of profit:

Provided that during any period when the Vice-President acts as President or discharges the functions of the President under article 65, he shall not perform the duties of the office of Chairman of the Council of States and shall not be entitled to any salary or allowance payable to the Chairman of the Council of States under article 97.

The Vice-President to act as President or to discharge his functions during casual vacancies in the office or during the absence, of President.

65. (1) In the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or removal, or otherwise, the Vice-President shall act as President until the date on which a new President elected in accordance with the provisions of this Chapter to fill such vacancy enters upon his office.

(2) When the President is unable to discharge his functions owing to absence, illness or any other cause, the Vice-President shall discharge his functions until the date on which the President resumes his duties.

(3) The Vice-President shall, during, and in respect of, the period while he is so acting as, or discharging the functions of, President, have all the powers and immunities of the President and be entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

Election of Vice-President.

66. (1) The Vice-President shall be elected by the members of both Houses of Parliament assembled at a joint meeting in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

(2) The Vice-President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected Vice-President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Vice-President.

(3) No person shall be eligible for election as Vice-President unless he—

(*a*) is a citizen of India;

(*b*) has completed the age of thirty-five years; and

(*c*) is qualified for election as a member of the Council of States.

(4) A person shall not be eligible for election as Vice-President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

*Explanation.*—For the purposes of this article, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor or Rajpramukh or Uparajpramukh of any State or is a Minister either for the Union or for any State.

Term of office of Vice-President.

67. The Vice-President shall hold office for a term of five years from the date on which he enters upon his office:

Provided that—

(*a*) a Vice-President may, by writing under his hand addressed to the President, resign his office;

(*b*) a Vice-President may be removed from his office by a resolution of the Council of States passed by a majority of all the then members of the Council and agreed to by the House of the People; but no resolution for the purpose of this clause shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution;

(*c*) a Vice-President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

Time of holding election to fill vacancy in the office of Vice-President and the term of office of person elected to fill casual vacancy.

68. (1) An election to fill a vacancy caused by the expiration of the term of office of Vice-President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of Vice-President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after the occurrence of the vacancy, and the person elected to fill the vacancy shall, subject to the provisions of article 67, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

Oath or affirmation by the Vice-President.

69. Every Vice-President shall, before entering upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation in the following form, that is to say—

"I, A.B., do swear in the name of God / solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter."

Discharge of President's functions in other contingencies.

70. Parliament may make such provision as it thinks fit for the discharge of the functions of the President in any contingency not provided for in this Chapter.

Matters relating to or connected with the election of a President or Vice-President.

71. (1) All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final.

(2) If the election of a person as President or Vice-President is declared void by the Supreme Court, acts done by him in the exercise and performance of the powers and duties of the office of President or Vice-President, as the case may be, on or before the date of the decision of the Supreme Court shall not be invalidated by reason of that declaration.

(3) Subject to the provisions of this Constitution, Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President.

Power of President to grant pardons, etc., and to suspend, remit or commute sentences in certain cases.

72. (1) The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence—

(a) in all cases where the punishment or sentence is by a Court Martial;

(b) in all cases where the punishment or sentence is for an offence against any law relating to a matter to which the executive power of the Union extends;

(c) in all cases where the sentence is a sentence of death.

(2) Nothing in sub-clause (*a*) of clause (1) shall affect the power conferred by law on any officer of the Armed Forces of the Union to suspend, remit or commute a sentence passed by a Court Martial.

(3) Nothing in sub-clause (*c*) of clause (1) shall affect the power to suspend, remit or commute a sentence of death exercisable by the Governor or Rajpramukh of a State under any law for the time being in force.

Extent of executive power of the Union.

73. (1) Subject to the provisions of this Constitution, the executive power of the Union shall extend—

(*a*) to the matters with respect to which Parliament has power to make laws; and

(b) to the exercise of such rights, authority and jurisdiction as are exercisable by the Government of India by virtue of any treaty or agreement:

Provided that the executive power referred to in sub-clause (*a*) shall not, save as expressly provided in this Constitution or in any law made by Parliament, extend in any State specified in Part A or Part B of the First Schedule to matters with respect to which the Legislature of the State has also power to make laws.

(2) Until otherwise provided by Parliament, a State and any officer or authority of a State may, notwithstanding anything in this article, continue to exercise in matters with respect to which Parliament has power to make laws for that State such executive power or functions as the State or officer or authority thereof could exercise immediately before the commencement of this Constitution.

*Council of Ministers.*

Council of Ministers to aid and advise President.

74. (1) There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions.

(2) The question whether any, and if so what, advice was tendered by Ministers to the President shall not be inquired into in any court.

Other provisions as to Ministers.

75. (1) The Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister.

(2) The Ministers shall hold office during the pleasure of the President.

(3) The Council of Ministers shall be collectively responsible to the House of the People.

(4) Before a Minister enters upon his office, the President shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(5) A Minister who for any period of six consecutive months is not a member of either House of Parliament shall at the expiration of that period cease to be a Minister.

(6) The salaries and allowances of Ministers shall be such as Parliament may from time to time by law determine and, until Parliament so determines, shall be as specified in the Second Schedule.

*The Attorney-General for India.*

Attorney-General for India.

76. (1) The President shall appoint a person who is qualified to be appointed a Judge of the Supreme Court to be Attorney-General for India.

(2) It shall be the duty of the Attorney-General to give advice to the Government of India upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the President, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.

(3) In the performance of his duties the Attorney-General shall have right of audience in all courts in the territory of India.

(4) The Attorney-General shall hold office during the pleasure of the President, and shall receive such remuneration as the President may determine.

*Conduct of Government Business.*

Conduct of business of the Government of India.

77. (1) All executive action of the Government of India shall be expressed to be taken in the name of the President.

(2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

(3) The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business.

Duties of Prime Minister as respects the furnishing of information to the President, etc.

78. It shall be the duty of the Prime Minister—

(*a*) to communicate to the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation ;

(*b*) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for ; and

(*c*) If the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

## CHAPTER II.—PARLIAMENT.

### *General.*

79. There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People. Constitution of parliament.

80. (1) The Council of States shall consist of— Composition of the Council of States.

(*a*) twelve members to be nominated by the President in accordance with the provisions of clause (3) ; and

(*b*) not more than two hundred and thirty-eight representatives of the States.

(2) The allocation of seats in the Council of States to be filled by representatives of the States shall be in accordance with the provisions in that behalf contained in the Fourth Schedule.

(3) the members to be nominated by the President under sub-clause (*a*) of clause (1) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely :—

Literature, science, art and social service.

(4) The representatives of each State specified in Part A or Part B of the First Schedule in the Council of States shall be elected by the elected members of the Legislative Assembly of the State in accordance with the system of proportional representation by means of the single transferable vote.

(5) The representatives of the States specified in Part C of the First Schedule in the Council of States shall be chosen in such manner as Parliament may by law prescribe.

81. (1) (*a*) Subject to the provisions of clause (2) and of articles 82 and 331, the House of the People shall consist of not more than five hundred members directly elected by the voters in the States. Composition of the House of the People.

(*b*) For the purpose of sub-clause (*a*), the States shall be divided, grouped or formed into territorial constituencies and the number of members to be allotted to each such constituency shall be so determined as to ensure that there shall be not less than one member for every 750,000 of the population and not more than one member of every 500,000 of the population.

(*c*) The ratio between the number of members allotted to each territorial constituency and the population of that constituency as ascertained at the last preceding census of which the relevant figures have been published shall, so far as practicable, be the same throughout the territory of India.

(2) The representation in the House of the People of the territories comprised within the territory of India but not included within any State shall be such as Parliament may by law provide.

(3) Upon the completion of each census, the representation of the several territorial constituencies in the House of the People shall be readjusted by such authority, in such manner and with effect from such date as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the House of the People until the dissolution of the then existing House.

Special provision as to representation of States in Part C and territories other than States.

82. Notwithstanding anything in clause (1) of article 81, Parliament may by law provide for the representation in the House of the People of any State specified in Part C of the First Schedule or of any territories comprised within the territory of India but not included within any State on a basis or in a manner other than that provided in that clause.

Duration of Houses of Parliament.

83. (1) The Council of States shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

(2) The House of the People, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the House:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

Qualification for membership of Parliament.

84. A person shall not be qualified to be chosen to fill a seat in Parliament unless he—

(*a*) is a citizen of India;

(*b*) is, in the case of a seat in the Council of States, not less than thirty years of age and, in the case of a seat in the House of the People, not less than twenty-five years of age; and

(*c*) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Sessions of Parliament prorogation and dissolution.

85. (1) The Houses of Parliament shall be summoned to meet twice at least in every year, and six months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session.

(2) Subject to the provisions of clause (1), the President may from time to time—

(*a*) summon the Houses or either House to meet at such time and place as he thinks fit;

(*b*) prorogue the Houses;

(*c*) dissolve the House of the People.

86. (1) The President may address either House of Parliament or both Houses assembled together, and for that purpose require the attendance of members.

Right of President to address and send messages to Houses.

(2) The President may send messages to either House of Parliament, whether with respect to a Bill then pending in Parliament or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

87. (1) At the commencement of every session the President shall address both Houses of Parliament assembled together and inform Parliament of the causes of its summons.

Special address by the President at the commencement of every session.

(2) Provision shall be made by the rules regulating the procedure of either House for the allotment of time for discussion of the matters referred to in such address and for the precedence of such discussion over other business of the House.

88. Every Minister and the Attorney-General of India shall have the right to speak in, and otherwise to take part in the proceedings of, either House, any joint sitting of the Houses, and any committee of Parliament of which he may be named a member, but shall not by virtue of this article be entitled to vote.

Rights of Ministers and Attorney-General as respects Houses.

*Officers of Parliament.*

89. (1) The Vice-President of India shall be *ex-officio* Chairman of the Council of States.

The Chairman and Deputy Chairman of the Council of States.

(2) The Council of States shall, as soon as may be, choose a member of the Council to be Deputy Chairman thereof and, so often as the office of Deputy Chairman becomes vacant, the Council shall choose another member to be Deputy Chairman thereof.

90. A member holding office as Deputy Chairman of the Council of States—

Vacation and resignation of, and removal from, the office of Deputy Chairman.

(*a*) shall vacate his office if he ceases to be a member of the Council;

(*b*) may at any time, by writing under his hand addressed to the Chairman, resign his office; and

(*c*) may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council:

Provided that no resolution for the purpose of clause (*c*) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman.

91. (1) While the office of Chairman is vacant, or during any period when the Vice-President is acting as, or discharging the functions of, President, the duties of the office shall be performed by the Deputy Chairman, or, if the office of Deputy Chairman is also vacant, by such member of the Council of States as the President may appoint for the purpose.

(2) During the absence of the Chairman from any sitting of the Council of States the Deputy Chairman, or, if he is also absent, such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as Chairman.

The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration.

92. (1) At any sitting of the Council of States, while any resolution for the removal of the Vice-President from his office is under consideration, the Chairman, or while any resolution for the removal of the Deputy Chairman from his office is under consideration, the Deputy Chairman, shall not, though he is present, preside, and provisions of clause (2) of article 91 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Chairman, or, as the case may be, the Deputy Chairman, is absent.

(2) The Chairman shall have the right to speak in, and otherwise to take part in the proceedings of, the Council of States while any resolution for the removal of the Vice-President from his office is under consideration in the Council, but, notwithstanding anything in article 100, shall not be entitled to vote at all on such resolution or on any other matter during such proceedings.

The Speaker and Deputy Speaker of the House of the People.

93. The House of the People shall, as soon as may be, choose two members of the House to be respectively Speaker and Deputy Speaker thereof, and so often as the office of Speaker or Deputy Speaker becomes vacant, the House shall choose another member to be Speaker or Deputy Speaker, as the case may be.

Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker.

94. A member holding office as Speaker or Deputy Speaker of the House of the People—

(*a*) shall vacate his office if he ceases to be a member of the House of the People;

(*b*) may at any time, by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and

(*c*) may be removed from his office by a resolution of the House of the People passed by a majority of all the then members of the House:

Provided that no resolution for the purpose of clause (*c*) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution;

Provided further that, whenever the House of the People is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the House of the People after the dissolution.

Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker.

95. (1) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the House of the People as the President may appoint for the purpose.

(2) During the absence of the Speaker from any sitting of the House of the People the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the House, or, if no such person is present, such other person as may be determined by the House, shall act as Speaker.

The Speaker or the Deputy Speaker not to preside while a resolution for his removal from office is under consideration.

96. (1) At any sitting of the House of the People, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside, and the provisions of clause (2) of article 95 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker, or, as the case may be, the Deputy Speaker, is absent.

(2) The Speaker shall have the right to speak in, and otherwise to take part in the proceedings of, the House of the People while any resolution for his removal from office is under consideration in the House and shall, notwithstanding anything in article 100, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

Salaries and allowances of the Chairman and Deputy Chairman and the Speaker and Deputy Speaker.

97. There shall be paid to the Chairman and the Deputy Chairman of the Council of States, and to the Speaker and the Deputy Speaker of the House of the People, such salaries and allowances as may be respectively fixed by Parliament by law and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

Secretariat of Parliament.

98. (1) Each House of Parliament shall have a separate secretarial staff:

Provided that nothing in this clause shall be construed as preventing the creation of posts common to both Houses of Parliament.

(2) Parliament may by law regulate the recruitment, and the conditions of service of persons appointed, to the secretarial staff of either House of Parliament.

(3) Until provision is made by Parliament under clause (2), the President may, after consultation with the Speaker of the House of the People or the Chairman of the

Council of States, as the case may be, make rules regulating the recruitment, and the conditions of service of persons appointed to the secretarial staff of the House of the People or the Council of States, and any rules so made shall have effect subject to the provisions of any law made under the said clause.

*Conduct of Business.*

Oath or affirmation by members.

99. Every member of either House of Parliament shall, before taking his seat, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

Voting in Houses, power of Houses to act notwithstanding vacancies and quorum.

100. (1) Save as otherwise provided in this Constitution, all questions at any sitting of either House or joint sitting of the Houses shall be determined by a majority of votes of the members present and voting, other than the Speaker or person acting as Chairman or Speaker.

The Chairman or Speaker, or person acting as such, shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(2) Either House of Parliament shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in Parliament shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

(3) Until Parliament by law otherwise provides, the quorum to constitute a meeting of either House of Parliament shall be one-tenth of the total number of members of the House.

(4) If at any time during a meeting of a House there is no quorum, it shall be the duty of the Chairman or Speaker, or person acting as such, either to adjurn the House or to suspend the meeting until there is quorum.

*Disqualifications of Members.*

Vacation of seats.

101. (1) No person shall be a member of both Houses of Parliament and provision shall be made by Parliament by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

(2) No person shall be a member both of Parliament and of a House of the Legislature of a State specified in Part A or Part B of the First Schedule, and if a person is chosen a member both of Parliament and of a House of the Legislature of such a State, then, at the expiration of such period as may be specified in rules made by the President, that person's seat in Parliament shall become vacant, unless he has previously resigned his seat in the Legislature of the State.

(3) If a member of either House of Parliament—

(*a*) becomes subject to any of the disqualifications mentioned in clause (1) of article 102, or

(*b*) resignes his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be, his seat shall thereupon become vacant.

(4) If for a period of sixty days a member of either House of Parliament is without permission of the House absent from all meetings thereof, the House may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

Disqualifications for membership.

102. (1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—

(*a*) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder;

(*b*) if he is of unsound mind and stands so declared by a competent court;

(*c*) if he is an undischarged insolvent;

(*d*) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State;

(*e*) if he is so disqualified by or under any law made by Parliament.

(2) For the purposes of this article a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State by reason only that he is a Minister either for the Union or for such State.

Decision on questions as to disqualifications of members.

103. (1) If any question arises as to whether a member of either House of Parliament has become subject to any of the disqualifications mentioned in clause (1) of article 102, the question shall be referred for the decision of the President and his decision shall be final.

(2) Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion.

Penalty for sitting and voting before making oath or affirmation under article 99 or when not qualified or when disqualified.

104. If a person sits or votes as a member of either House of Parliament before he has complied with the requirements of article 99, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Union.

*Powers, Privileges and Immunities of Parliament and its Members.*

Powers, privileges, etc., of the Houses of Parliament and of the members and committees thereof.

105. (1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.

(2) No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of each House of Parliament, and of the members and the committees of each House, shall be such as may from time to time be defined by Parliament by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution.

(4) The provisions of clauses (1), (2) and (3) shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise to take part in the proceedings of, a House of Parliament or any committee thereof as they apply in relation to members of Parliament.

Salaries and allowances of members.

106. Members of either House of Parliament shall be entitled to receive such salaries and allowances as may from time to time be determined by Parliament by law and, until provision in that respect is so made, allowances at such rates and upon such conditions as were immediately before the commencement of this Constitution applicable in the case of members of the Constituent Assembly of the Dominion of India.

*Legislative Procedure.*

Provisions as to introduction and passing of Bills.

107. (1) Subject to the provisions of articles 109 and 117 with respect to Money Bills and other financial Bills, a Bill may originate in either House of Parliament.

(2) Subject to the provisions of articles 108 and 109, a Bill shall not be deemed to have been passed by the Houses of Parliament unless it has been agreed to by both Houses, either without amendment or with such amendments only as are agreed to by both Houses.

(3) A Bill pending in Parliament shall not lapse by reason of the prorogation of the Houses.

(4) A Bill pending in the Council of States which has not been passed by the House of the People shall not lapse on a dissolution of the House of the People.

(5) A Bill which is pending in the House of the People, or which having been passed by the House of the People is

pending in the Council of States, shall, subject to the provisions of article 108, lapse on a dissolution of the House of the People.

**Joint sitting of both Houses in certain cases.**

108. (1) If after a Bill has been passed by one House and transmitted to the other House—

(*a*) the Bill is rejected by the other House; or

(*b*) the Houses have finally disagreed as to the amendments to be made in the Bill; or

(*c*) more than six months elapse from the date of the reception of the Bill by the other House without the Bill being passed by it,

the President may, unless the Bill has lapsed by reason of a dissolution of the House of the People, notify to the Houses by message if they are sitting or by public notification if they are not sitting, his intention to summon them to meet in a joint sitting for the purpose of deliberating and voting on the Bill:

Provided that nothing in this clause shall apply to a Money Bill.

(2) In reckoning any such period of six months as is referred to in clause (1), no account shall be taken of any period during which the House referred to in sub-clause (*c*) of that clause is prorogued or adjourned for more than four consecutive days.

(3) Where the President has under clause (1) notified his intention of summoning the Houses to meet in a joint sitting, neither House shall proceed further with the Bill, but the President may at any time after the date of his notification summon the Houses to meet in a joint sitting for the purpose specified in the notification and, if he does so, the Houses shall meet accordingly.

(4) If at the joint sitting of the two Houses the Bill, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Houses present and voting, it shall be deemed for the purposes of this Constitution to have been passed by both Houses:

Provided that at a joint sitting—

(*a*) if the Bill, having been passed by one House, has not been passed by the other House with amendments and returned to the House in which it originated, no amendment shall be proposed to the Bill other than such amendments (if any) as are made necessary by the delay in the passage of the Bill;

(b) if the Bill has been so passed and returned, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Houses have not agreed;

and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.

(5) A joint sitting may be held under this article and a Bill passed thereat, notwithstanding that a dissolution of the House of the People has intervened since the President notified his intention to summon the Houses to meet therein.

Special procedure in respect of Money Bills.

109. (1) A Money Bill shall not be introduced in the Council of States.

(2) After a Money Bill has been passed by the House of the People it shall be transmitted to the Council of States for its recommendations and the Council of States shall within a period of fourteen days from the date of its receipt of the Bill return the Bill to the House of the People with its recommendations and the House of the People may thereupon either accept or reject all or any of the recommendations of the Council of States.

(3) If the House of the People accepts any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Council of States and accepted by the House of the People.

(4) If the House of the People does not accept any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the House of the People without any of the amendments recommended by the Council of States.

(5) If a Money Bill passed by the House of the People and transmitted to the Council of States for its recommendations is not returned to the House of the People within the said period of fourteen days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the House of the People.

Definition of "Money Bills".

110. (1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely—

(*a*) the imposition, abolition, remission, alteration or regulation of any tax;

(*b*) the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India;

(*c*) the custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such Fund;

(*d*) the appropriation of moneys out of the Consolidated Fund of India;

(*e*) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure;

(*f*) the receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State; or

(*g*) any matter incidental to any of the matters specified in sub-clauses (*a*) to (*f*).

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the House of the People thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Council of States under article 109, and when it is presented to the President for assent under article 111, the certificate of the Speaker of the House of the People signed by him that it is a Money Bill.

Assent to Bills.

111. When a Bill has been passed by the Houses of Parliament, it shall be presented to the President, and the President shall declare either that he assents to the Bill, or that he withholds assent therefrom:

Provided that the President may, as soon as possible after the presentation to him of a Bill for assent, return the Bill if it is not a Money Bill to the Houses with a message requesting that they will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and when a Bill is so returned, the Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the Houses with or without amendment and presented to the President for assent, the President shall not withhold assent therefrom.

*Procedure in financial matters.*

Annual financial statement.

112. (1) The President shall in respect of every financial year cause to be laid before both the Houses of Parliament a statement of the estimated receipts and expenditure of the Government of India for that year, in this Part referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(*a*) the sums required to meet expenditure described by this Constitution as expenditure charged upon the Consolidated Fund of India; and

(*b*) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of India, and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the Consolidated Fund of India—

(*a*) the emoluments and allowances of the President and other expenditure relating to his office;

(*b*) the salaries and allowances of the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the House of the People;

(*c*) debt charges for which the Government of India is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;

(*d*) (*i*) the salaries, allowances and pensions payable to or in respect of Judges of the Supreme Court;

(*ii*) the pensions payable to or in respect of Judges of the Federal Court;

(*iii*) the pensions payable to or in respect of Judges of any High Court which exercises jurisdiction in relation to any area included in the territory of India or which at any time before the commencement of this Constitution exercised jurisdiction in relation to any area included in a Province corresponding to a State specified in Part A of the First Schedule;

(*e*) the salary, allowances and pension payable to or in respect of the Comptroller and Auditor-General of India;

(*f*) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;

(*g*) any other expenditure declared by this Constitution or by Parliament by law to be so charged.

Procedure in Parliament with respect to estimates.

113. (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of India shall not be submitted to the vote of Parliament, but nothing in this clause shall be construed as preventing the discussion in either House of Parliament of any of those estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the House of the People, and the House of the People shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the President.

Appropriation Bills.

114. (1) As soon as may be after the grants under article 113 have been made by the House of the People, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of India of all moneys required to meet—

(*a*) the grants so made by the House of the People; and

(*b*) the expenditure charged on the Consolidated Fund of India but not exceeding in any case the amount shown in the statement previously laid before Parliament.

(2) No amendment shall be proposed to any such Bill in either House of Parliament which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of India, and the decision of the person presiding as to whether an amendment is inadmissible under this clause shall be final.

(3) Subject to the provisions of articles 115 and 116, no money shall be withdrawn from the Consolidated Fund of India except under appropriation made by law passed in accordance with the provisions of this article.

Supplementary additional or excess grants.

115. (1) The President shall—

(*a*) if the amount authorized by any law made in accordance with the provisions of article 114 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(*b*) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year,

cause to be laid before both the Houses of Parliament another statement showing the estimated amount of that expenditure or cause to be presented to the House of the People a demand for such excess, as the case may be.

(2) The provisions of articles 112, 113 and 114 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorizing the appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorization of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or grant.

Votes on account, votes of credit and exceptional grants.

116. (1) Notwithstanding anything in the foregoing provisions of this Chapter, the House of the People shall have power—

(*a*) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 113 for the voting of such grant and the passing of the law in accordance with the provisions of article 114 in relation to that expenditure;

(*b*) to make a grant for meeting an unexpected demand upon the resources of India when on account of the magnitude or the indefinite character of the service the demand cannot be stated with the details ordinarily given in an annual financial statement;

(*c*) to make an exceptional grant which forms no part of the current service of any financial year;

and Parliament shall have power to authorize by law the withdrawal of moneys from the Consolidated Fund of India for the purposes for which the said grants are made.

(2) The provisions of articles 113 and 114 shall have effect in relation to the making of any grant under clause (1) and to any law to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorization of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure.

Special provisions as to financial Bills.

117. (1) A Bill or amendment making provision for any of the matters specified in sub-clauses (*a*) to (*f*) of clause (1) of article 110 shall not be introduced or moved except on the recommendation of the President and a Bill making such provision shall not be introduced in the Council of States:

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India shall not be passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill.

*Procedure Generally.*

Rules of procedure.

118. (1) Each House of Parliament may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business.

(2) Until rules are made under clause (1), the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature of the Dominion of India shall have effect in relation to Parliament subject to such modifications and adaptations as may be made therein by the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.

(3) The President, after consultation with the Chairman of the Council of States and the Speaker of the House of the People, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Houses.

(4) At a joint sitting of the two Houses the Speaker of the House of the People, or in his absence such person as may be determined by rules of procedure made under clause (3), shall preside.

Regulation by law of procedure in Parliament in relation to financial business.

119. Parliament may, for the purpose of the timely completion of financial business, regulate by law the procedure of, and the conduct of business in, each House of Parliament in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of India, and, if and so far as any provision of any law so made is inconsistent with any rule made by a House of Parliament under clause (1) of article 118 or with any rule or standing order having effect in relation to Parliament under clause (2) of that article, such provision shall prevail.

Language to be used in Parliament.

120. (1) Notwithstanding anything in Part XVII, but subject to the provisions of article 348, business in Parliament shall be transacted in Hindi or in English :

Provided that the Chairman of the Council of States or Speaker of the House of the People, or person acting as such, as the case may be, may permit any member who cannot adequately express himself in Hindi or in English to address the House in his mother tongue.

(2) Unless Parliament by law otherwise provides, this article shall, after the expiration of a period of fifteen years from the commencement of this Constitution, have effect as if the words "or in English" were omitted therefrom.

Restriction on discussion in Parliament.

121. No discussion shall take place in Parliament with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties except upon a motion for presenting an address to the President praying for the removal of the Judge as hereinafter provided.

Courts not to inquire into proceedings of Parliament.

122. (1) The validity of any proceedings in Parliament shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or member of Parliament in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in Parliament shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

## CHAPTER III.—LEGISLATIVE POWERS OF THE PRESIDENT.

Power of President to promulgate Ordinances during recess of Parliament.

123. (1) If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require.

(2) On Ordinance promulgated under this article shall have the same force and effect as an Act of Parliament, but every such Ordinance—

(*a*) shall be laid before both Houses of Parliament and shall cease to operate at the expiration of six weeks from the reassembly of Parliament, or, if before the expiration of that period resolutions disapproving it are passed by both Houses, upon the passing of the second of those resolutions; and

(*b*) may be withdrawn at any time by the President.

*Explanation.*—Where the Houses of Parliament are summoned to reassemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which Parliament would not under this Constitution be competent to enact, it shall be void.

## CHAPTER IV.—THE UNION JUDICIARY.

Establishment and constitution of Supreme Court.

124. (1) There shall be a Supreme Court of India consisting of a Chief Justice of India and, until Parliament by law prescribes a larger number, of not more than seven other Judges.

(2) Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty-five years:

Provided that in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of India shall always be consulted:

Provided further that—

(*a*) a Judge may, by writing under his hand addressed to the President, resign his office;

(*b*) a Judge may be removed from his office in the manner provided in clause (4).

(3) A person shall not be qualified for appointment as a Judge of the Supreme Court unless he is a citizen of India and—

(*a*) has been for at least five years a Judge of a High Court or of two or more such Courts in succession; or

(*b*) has been for at least ten years an advocate of a High Court or of two or more such Courts in succession; or

(*c*) is, in the opinion of the President, a distinguished jurist.

*Explanation I.*—In this clause "High Court" means a High Court which exercises, or which at any time before the commencement of this Constitution exercised, jurisdiction in any part of the territory of India.

*Explanation II.*—In computing for the purpose of this clause the period during which a person has been an advocate, any period during which a person has held judicial office not inferior to that of a district judge after he became an advocate shall be included.

(4) A Judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity.

(5) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a Judge under clause (4).

(6) Every person appointed to be a Judge of the Supreme Court shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

(7) No person who has held office as a Judge of the Supreme Court shall plead or act in any court or before any authority within the territory of India.

Salaries, etc., of Judges.

125. (1) There shall be paid to the Judges of the Supreme Court such salaries as are specified in the Second Schedule.

(2) Every Judge shall be entitled to such privileges and allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such privileges, allowances and rights as are specified in the Second Schedule:

Provided that neither the privileges nor the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

Appointment of acting Chief Justice.

126. When the office of Chief Justice of India is vacant or when the Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose.

Appointment of *ad hoc* Judges.

127. (1) If at any time there should not be quorum of the Judges of the Supreme Court available to hold or continue any session of the Court, the Chief Justice of India may, with the previous consent of the President and after

consultation with the Chief Justice of the High Court concerned, request in writing the attendance at the sittings of the Court, as an *ad hoc* Judge, for such period as may be necessary, of a Judge of a High Court duly qualified for appointment as a Judge of the Supreme Court to be designated by the Chief Justice of India.

(2) It shall be the duty of the Judge who has been so designated, in priority to other duties of his office, to attend the sittings of the Supreme Court at the time and for the period for which his attendance is required, and while so attending he shall have all the jurisdiction, powers and privileges, and shall discharge the duties, of a Judge of the Supreme Court.

Attendance of retired Judges at sittings of the Supreme Court.

128. Notwithstanding anything in this Chapter, the Chief Justice of India may at any time, with the previous consent of the President, request any person who has held the office of a Judge of the Supreme Court or of the Federal Court to sit and act as a Judge of the Supreme Court, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that Court:

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that Court unless he consents so to do.

Supreme Court to be a Court of record.

129. The Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.

Seat of Supreme Court.

130. The Supreme Court shall sit in Delhi or in such other place or places, as the Chief Justice of India may, with the approval of the President, from time to time, appoint.

Original jurisdiction of the Supreme Court

131. Subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute—

(*a*) between two or more States,

(*b*) between the Government of India and any State or States on one side and one or more other States on the other; or

(*c*) between two or more States,

if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends:

Provided that the said jurisdiction shall not extend to—

(*i*) a dispute to which a State specified in Part B of the First Schedule is a party, if the dispute arises out of any provision of a treaty, agreement, covenant, engagement, *sanad* or other similar instrument which was entered into or executed before the commencement of this Constitution and has, or has been, continued in operation after such commencement;

(*ii*) a dispute to which any State is a party, if the dispute arises out of any provision of a treaty, agreement, covenant, engagement, *sanad* or other similar instrument which provides that the said jurisdiction shall not extend to such a dispute.

Appellate jurisdiction of Supreme Court in appeals from High Courts in certain cases.

132. (1) An appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in the territory of India, whether in a civil, criminal or other proceeding, if the High Court certifies that the case involves a substantial question of law as to the interpretation of this Constitution.

(2) Where the High Court has refused to give such a certificate, the Supreme Court may, if it is satisfied that the case involves a substantial question of law as to the interpretation of this Constitution, grant special leave to appeal from such judgment, decree or final order.

(3) Where such a certificate is given, or such leave is granted, any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided and, with the leave of the Supreme Court, on any other ground.

*Explanation.*—For the purposes of this article, the expression "final order" includes an order deciding an issue which, if decided in favour of the appellant, would be sufficient for the final disposal of the case.

Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to civil matters.

133. (1) An appeal shall lie to the Supreme Court from any judgment, decree or final order in a civil proceeding of a High Court in the territory of India if the High Court certifies—

(*a*) that the amount or value of the subject-matter of the dispute in the court of first instance and still in dispute on appeal was and is not less than twenty thousand rupees or such other sum as may be specified in that behalf by Parliament by law; or

(*b*) that the judgment, decree or final order involves directly or indirectly some claim or question respecting property of the like amount or value; or

(*c*) that the case is a fit one for appeal to the Supreme Court;

and, where the judgment, decree or final order appealed from affirms the decision of the court immediately below in any case other than a case referred to in sub-clause (*c*), if the High Court further certifies that the appeal involves some substantial question of law.

(2) Notwithstanding anything in article 132, any party appealing to the Supreme Court under clause (1) may urge as one of the grounds in such appeal that a substantial question of law as to the interpretation of this Constitution has been wrongly decided.

(3) Notwithstanding anything in this article, no appeal shall, unless Parliament by law otherwise provides, lie to the Supreme Court from the judgment, decree or final order of one Judge of a High Court.

Appellate jurisdiction of Supreme Court in regard to criminal matters.

134. (1) An appeal shall lie to the Supreme Court from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India if the High Court—

(*a*) has on appeal reversed an order of acquittal of an accused person and sentenced him to death; or

(*b*) has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused person and sentenced him to death; or

(*c*) certifies that the case is a fit one for appeal to the Supreme Court:

Provided that an appeal under sub-clause (*c*) shall lie subject to such provisions as may be made in that behalf under clause (1) of article 145 and to such conditions as the High Court may establish or require.

(2) Parliament may by law confer on the Supreme Court any further powers to entertain and hear appeals from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India subject to such conditions and limitations as may be specified in such law.

Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court.

135. Until Parliament by law otherwise provides, the Supreme Court shall also have jurisdiction and powers with respect to any matter to which the provisions of article 133 or article 134 do not apply if jurisdiction and powers in relation to that matter were exercisable by the Federal Court immediately before the commencement of this Constitution under any existing law.

Special leave to appeal by the Supreme Court.

136. (1) Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India.

(2) Nothing in clause (1) shall apply to any judgment, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces.

Review of judgments or orders by the Supreme Court.

137. Subject to the provisions of any law made by Parliament or any rules made under article 145, the Supreme Court shall have power to review any judgment pronounced or order made by it.

Enlargement of the jurisdiction of the Supreme Court.

138. (1) The Supreme Court shall have such further jurisdiction and powers with respect to any of the matters in the Union List as Parliament may by law confer.

(2) The Supreme Court shall have such further jurisdiction and powers with respect to any matter as the Government of India and the Government of any State may by special agreement confer, if Parliament by law provides for the exercise of such jurisdiction and powers by the Supreme Court.

Conferment on the Supreme Court of powers to issue certain writs.

139. Parliament may by law confer on the Supreme Court power to issue directions, orders or writs, including writs in the nature of *habeas corpus, mandamus,* prohibition, *quo warranto* and *certiorari,* or any of them, for any purposes other than those mentioned in clause (2) of article 32.

Ancillary powers of Supreme Court.

140. Parliament may by law make provision for conferring upon the Supreme Court such supplemental powers not inconsistent with any of the provisions of this Constitution as may appear to be necessary or desirable for the purpose of enabling the court more effectively to exercise the jurisdiction conferred upon it by or under this Constitution.

Law declared by Supreme Court to be binding on all.

141. The law declared by the Supreme Court shall be binding on all courts within the territory of India.

142. (1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe.

Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself.

143. (1) If at any time it appears to the President that a question of law or fact has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that Court for consideration and the court may, after such hearing as it thinks fit, report to the President its opinion thereon.

Power of President to consult Supreme Court.

(2) The President may, notwithstanding anything in clause (*i*) of the proviso to article 131, refer a dispute of the kind mentioned in the said clause to the Supreme Court for opinion and the Supreme Court shall, after such hearing as it thinks fit, report to the President its opinion thereon.

144. All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court.

Civil and judicial authorities to act in aid of the Supreme Court.

145. (1) Subject to the provisions of any law made by Parliament, the Supreme Court may from time to time, with the approval of the President, make rules for regulating generally the practice and procedure of the Court including—

Rules of Court, etc.

(*a*) rules as to the persons practising before the court;

(*b*) rules as to the procedure for hearing appeals and other matters pertaining to appeals including the time within which appeals to the court are to be entered;

(*c*) rules as to the proceedings in the court for the enforcement of any of the rights conferred by Part III;

(*d*) rules as to the entertainment of appeals under sub-clause (*c*) of cluse (1) of article 134;

(*e*) rules as to the conditions subject to which any judgment pronounced or order made by the Court may be reviewed and the procedure for such review including the time within which applications to the court for such review are to be entered;

(*f*) rules as to the costs of and incidental to any proceedings in the court and as to the fees to be charged in respect of proceedings therein;

(*g*) rules as to the granting of bail;

(*h*) rules as to stay of proceedings;

(*i*) rules providing for the summary determination of any appeal which appears to the court to be frivolous or vexatious or brought for the purpose of delay;

(*j*) rules as to the procedure for inquiries referred to in clause (1) of article 317.

(2) Subject to the provisions of clause (3), rules made under this article may fix the minimum number of Judges who are to sit for any purpose, and may provide for the powers of single Judges and Division Courts.

(3) The minimum number of Judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution or for the purpose of hearing any reference under article 143 shall be five:

Provided that, where the Court hearing an appeal under any of the provisions of this Chapter other than article 132 consists of less than five Judges and in the course of the hearing of the appeal the Court is satisfied that the appeal involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the appeal, such Court shall refer the question for opinion to a Court constituted as required by this clause for the purpose of deciding any case involving such a question and shall on receipt of the opinion dispose of the appeal in conformity with such opinion.

(4) No judgment shall be delivered by the Supreme Court save in open Court, and no report shall be made under article 143 save in accordance with an opinion also delivered in open Court.

(5) No judgment and no such opinion shall be delivered by the Supreme Court save with the concurrence of a majority of the Judges present at the hearing of the case, but nothing in this clause shall be deemed to prevent a Judge who does not concur from delivering a dissenting judgment or opinion.

146. (1) Appointments of officers and servants of the Supreme Court shall be made by the Chief Justice of India or such other Judge or officer of the Court as he may direct:

Officers and servants and the expenses of the Supreme Court.

Provided that the President may by rule require that in such cases as may be specified in the rule, no person not already attached to the Court shall be appointed to any office connected with the Court, save after consultation with the Union Public Service Commission.

(2) Subject to the provisions of any law made by Parliament, the conditions of service of officers and servants of the Supreme Court shall be such as may be prescribed by rules made by the Chief Justice of India or by some other Judge or officer of the Court authorised by the Chief Justice of India to make rules for the purpose:

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the President.

(3) The administrative expenses of the Supreme Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, shall be charged upon the Consolidated Fund of India, and any fees or other moneys taken by the Court shall form part of that Fund.

147. In this Chapter and in Chapter V of Part VI, references to any substantial question of law as to the interpretation of this Constitution shall be construed as including references to any substantial question of law as to the interpretation of the Government of India Act, 1935 (including any enactment amending or supplementing that Act), or of any Order in Council or order made thereunder, or of the Indian Independence Act, 1947, or of any order made thereunder.

Interpretation.

## CHAPTER V.—COMPTROLLER AND AUDITOR-GENERAL OF INDIA.

148. (1) There shall be a Comptroller and Auditor-General of India who shall be appointed by the President by warrant under his hand and seal and shall only be removed from office in like manner and on the like grounds as a Judge of the Supreme Court.

Comptroller and Auditor-General of India.

(2) Every person appointed to be the Comptroller and Auditor-General of India shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

(3) The salary and other conditions of service of the Comptroller and Auditor-General shall be such as may be determined by Parliament by law and, until they are so determined, shall be as specified in the Second Schedule:

Provided that neither the salary of a Comptroller and Auditor-General nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage after his appointment.

(4) The Comptroller and Auditor-General shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

(5) Subject to the provisions of this Constitution and of any law made by Parliament, the conditions of service of persons serving in the Indian Audit and Accounts Department and the administrative powers of the Comptroller and Auditor-General shall be such as may be prescribed by rules made by the President after consultation with the Comptroller and Auditor-General.

(6) The administrative expenses of the office of the Comptroller and Auditor-General, including all salaries, allowances and pensions payable to or in respect of persons serving in that office, shall be charged upon the Consolidated Fund of India.

Duties and powers of the Comptroller and Auditor-General.

149. The Comptroller and Auditor-General shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States and of any other authority or body as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States as were conferred on or exercisable by the Auditor-General of India immediately before the commencement of this Constitution in relation to the accounts of the Dominion of India and of the Provinces respectively.

Power of Comptroller and Auditor-General to give directions as to accounts.

150. The accounts if the Union and of the States shall be kept in such form as the Comptroller and Auditor-General of India may, with the approval of the President, prescribe.

Audit reports.

151. (1) The reports of the Comptroller and Auditor-General of India relating to the accounts of the Union shall be submitted to the President, who shall cause them to be laid before each House of Parliament.

(2) The reports of the Comptroller and Auditor-General of India relating to the accounts of a State shall be submitted to the Governor or Rajpramukh of the State, who shall cause them to be laid before the Legislature of the State.

## PART IV.

## THE STATES IN PART A OF THE FIRST SCHEDULE.

### CHAPTER I.—GENERAL.

Definition.

152. In this Part, unless the context otherwise requires, the expression "State" means a State specified in Part A of the First Schedule.

### CHAPTER II.—THE EXECUTIVE.

*The Governor.*

Governors of States

153. There shall be a Governor for each State.

Executive power of State.

154. (1) The executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.

(2) Nothing in this article shall—

(*a*) be deemed to transfer to the Governor any functions conferred by any existing law on any other authority; or

(*b*) prevent Parliament or the Legislature of the State from conferring by law functions on any authority subordinate to the Governor.

Appointment of Governor.

155. The Governor of a State shall be appointed by the President by warrant under his hand and seal.

Term of office of Governor.

156. (1) The Governor shall hold office during the pleasure of the President.

(2) The Governor may, by writing under his hand addressed to the President, resign his office.

(3) Subject to the foregoing provisions of this article, a Governor shall hold office for a term of five years from the date on which he enters upon his office:

Provided that a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

Qualifications for appointment as Governor.

157. No person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty-five years.

Conditions of Governor's office.

158. (1) The Governor shall not be a member of either House of Parliament or of a House of the Legislature of any State specified in the First Schedule, and if a member of either House of Parliament or of a House of the Legislature of any such State be appointed Governor, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Governor.

(2) The Governor shall not hold any other office of profit.

(3) The Governor shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

(4) The emoluments and allowances of the Governor shall not be diminished during his term of office.

Oath or affirmation by the Governor.

159. Every Governor and every person discharging the functions of the Governor shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of the High Court exercising jurisdiction in relation to the State, or in his absence, the seniormost Judge of that Court available, an oath or affirmation in the following form, that is to say—

"I, A.B., do $\frac{\text{swear in the name of God}}{\text{solemnly affirm}}$ that I will faithfully execute the office of Governor (or discharge the functions of the Governor) of..... (*name of the State*) and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well being of the people of..... (*name of the State.*)"

Discharge of the functions of the Governor in certain contingencies.

160. The President may make such provision as he thinks fit for the discharge of the functions of the Governor of a State in any contingency not provided for in this Chapter.

161. The Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends.

Power of Governor to grant pardons, etc. and to suspend, remit or commute sentences in certain cases.

162. Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has power to make laws :

Extent of executive power of State.

Provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by this Constitution or by any law made by Parliament upon the Union or authorities thereof.

*Council of Ministers.*—

163. (1) There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion.

Council of Ministers to aid and advise Governor.

(2) If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Constitution required to act in his discretion, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion.

(3) The question whether any, and if so what, advice was tendered by Ministers to the Governor shall not be inquired into in any court.

164. (1) The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister and the Ministers shall hold office during the pleasure of the Governor;

Other provisions as to Ministers

Provided that in the States of Bihar, Madhya Pradesh and Orissa, there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.

(2) The Council of Ministers shall be collectively responsible to the Legislative Assembly of the State.

(3) Before a Minister enters upon his office, the Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(4) A Minister who for any period of six consecutive months is not a member of the Legislature of the State shall at the expiration of that period cease to be a Minister.

(5) The salaries and allowances of Ministers shall be such as the Legislature of the State may from time to time by law determine and, until the Legislature of the State so determines, shall be as specified in the Second Schedule.

*The Advocate-General for the State.*

Advocate-General for the State.

165. (1) The Governor of each State shall appoint a person who is qualified to be appointed a Judge of a High Court to be Advocate-General for the State.

(2) It shall be the duty of the Advocate-General to give advice to the Government of the State upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the Governor, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.

(3) The Advocate-General shall hold office during the pleasure of the Governor, and shall receive such remuneration as the Governor may determine.

*Conduct of Government Business.*

Conduct of business of the Government of a State.

166. (1) All executive action of the Government of a State shall be expressed to be taken in the name of the Governor.

(2) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.

(3) The Governor shall make rules for the more convenient transaction of the business of the Government of the State, and for the allocation among Ministers of the said business in so far as it is not business with respect to which the Governor is by or under this Constitution required to act in his discretion.

Duties of Chief Minister as respects the furnishing of information to Governor, etc.

167. It shall be the duty of the Chief Minister of each State—

(*a*) to communicate to the Governor of the State all decisions of the Council of Ministers relating to the administration of the affairs of the State and proposals for legislation;

(*b*) to furnish such information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for; and

(*c*) if the Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

## CHAPTER III.—THE STATE LEGISLATURE.

### *General.*

Constitution of Legislatures in States.

168. (1) For every State there shall be a Legislature which shall consist of the Governor, and

(*a*) in the States of Bihar, Bombay, Madras, Punjab, the United Provinces and West Bengal, two Houses;

(*b*) in other States, one House.

(2) Where there are two Houses of the Legislature of a State, one shall be known as the Legislative Council and the other as the Legislative Assembly and where there is only one House, it shall be known as the Legislative Assembly.

Abolition or creation of Legislative Councils in States.

169. (1) Notwithstanding anything in article 168, Parliament may by law provide for the abolition of the Legislative Council of a State having such a Council or for the creation of such a Council in a State having no such Council, if the Legislative Assembly of the State passes a resolution to that effect by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting.

(2) Any law referred to in clause (1) shall contain such provisions for the amendment of this Constitution as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions as Parliament may deem necessary.

(3) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.

*Part VI.—The States in Part A of the First Schedule.—Arts.* 170-171.

Composition of the Legislative Assemblies.

170. (1) Subject to the provisions of article 333, the Legislative Assembly of each State shall be composed of members chosen by direct election.

(2) The representation of each territorial constituency in the Legislative Assembly of a State shall be on the basis of the population of that constituency as ascertained at the last preceding census of which the relevant figures have been published and shall, save in the case of the autonomous districts of Assam and the constituency comprising the cantonment and municipality of Shillong, be on a scale of not more than one member for every seventy-five thousand of the population :

Provided that the total number of members in the Legislative Assembly of a State shall in no case be more than five hundred or less than sixty.

(3) The ratio between the number of members to be allotted to each territorial constituency in a State and the population of that constituency as ascertained at the last preceding census of which the relevant figures have been published shall, so far as practicable, be the same throughout the State.

(4) Upon the completion of each census, the representation of the several territorial constituencies in the Legislative Assembly of each State shall be readjusted by such authority, in such manner and with effect from such date as Parliament may by law determine :

Provided that such readjustment shall not affect representation in the Legislative Assembly until the dissolution of the then existing Assembly.

Composition of the Legislative Councils.

171. (1) The total number of members in the Legislative Council of a State having such a Council shall not exceed one-fourth of the total number of members in the Legislative Assembly of that State :

Provided that the total number of members in the Legislative Council of a State shall in no case be less than forty.

(2) Until Parliament by law otherwise provides, the composition of the Legislative Council of a State shall be as provided in clause (3).

(3) Of the total number of members of the Legislative Council of a State—

(*a*) as nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district boards and such other local authorities in the State as Parliament may by law specify ;

(*b*) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons residing in the State who have been for at least three years graduates of any university in the territory of India or have been for at least three years in possession of qualifications prescribed by or under any law made by Parliament as equivalent to that of a graduate of any such university;

(*c*) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons who have been for at least three years engaged in teaching in such educational institutions within the State, not lower in standard than that of a secondary school, as may be prescribed by or under any law made by Parliament;

(*d*) as nearly as may be, one-third shall be elected by the members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly;

(*e*) the remainder shall be nominated by the Governor in accordance with provisions of clause (5).

(4) The members to be elected under sub-clauses (*a*), (*b*) and (*c*) of clause (3) shall be chosen in such territorial constituencies as may be prescribed by or under any law made by Parliament, and the elections under the said sub-clauses and under sub-clause (*d*) of the said clause shall be held in accordance with the system of proportional representation by means of the single transferable vote.

(5) The members to be nominated by the Governor under sub-clause (*e*) of clause (3) shall consist of persons having special knowledge or practical experience in respect of such matters as the following namely:—

Literature, science, art, co-operative movement and social service.

**Duration of State Legislatures.**

172. (1) Every Legislative Assembly of every State, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the Assembly:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

(2) The Legislative Council of a State shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the

expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

Qualification for membership of the State Legislature.

173. A person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he—

(*a*) is a citizen of India;

(*b*) is, in the case of a seat in the Legislative Assembly, not less than twenty-five years of age and, in the case of a seat in the Legislative Council, not less than thirty years of age; and

(*c*) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Sessions of the State Legislature, prorogation and dissolution.

174. (1) The House or Houses of the Legislature of the State shall be summoned to meet twice at least in every year, and six months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session.

(2) Subject to the provisions of clause (1), the Governor may from time to time—

(*a*) summon the House or either House to meet at such time and place as he thinks fit;

(*b*) prorogue the House or Houses;

(*c*) dissolve the Legislative Assembly.

Right of Governor to address and send messages to the House or Houses.

175. (1) The Governor may address the Legislative Assembly or, in the case of a State having a Legislative Council, either House of the Legislature of the State, or both Houses assembled together, and may for that purpose require the attendance of members.

(2) The Governor may send messages to the House or Houses of the Legislature of the State, whether with respect to a Bill then pending in the Legislature or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

Special address by the Governor to the commencement of every session.

176. (1) At the commencement of every session, the Governor shall address the Legislative Assembly or, in the case of a State having a Legislative Council, both Houses assembled together and inform the Legislature of the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of the House or either House for the allotment of time for discussion of the matters referred to in such address and for the precedence of such discussion over other business of the House.

*Part VI.—The States in Part A of the First Schedule.—Arts. 177-180.*

177. Every Minister and the Advocate-General for a State shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly of the State or, in the case of a State having a Legislative Council, both Houses, and to speak in, and otherwise to take part in the proceedings of, any committee of the Legislature of which he may be named a member, but shall not, by virtue of this article, be entitled to vote.

Rights of Ministers and Advocate-General as respects the Houses.

*Officers of the State Legislature.*

178. Every Legislative Assembly of a State shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

The Speaker and Deputy Speaker of the Legislative Assembly.

179. A member holding office as Speaker or Deputy Speaker of an Assembly—

(*a*) shall vacate his office if he ceases to be a member of the Assembly;

(*b*) may at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and

(*c*) may be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (*c*) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that, whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker.

180. (1) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the Assembly as the Government may appoint for the purpose.

(2) During the absence of the Speaker from any sitting of the Assembly the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the Assembly, or, if no such person is present, such other person as may be determined by the Assembly, shall act as Speaker.

Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker.

The Speaker and the Deputy Speaker not to preside while a resolution for his removal from office is under consideration.

181. (1) At any sitting of the Legislative Assembly, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside and the provisions of clause (2) of article 180 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be, the Deputy Speaker, is absent.

(2) The Speaker shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly while any resolution for his removal from office is under consideration in the Assembly and shall, notwithstanding anything in article 189, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

The Chairman and Deputy Chairman of the Legislative Council.

182. The Legislative Council of every State having such Council shall, as soon as may be, choose two members of the Council to be respectively Chairman and Deputy Chairman thereof and, so often as the office of Chairman or Deputy Chairman becomes vacant, the Council shall choose another member to be Chairman or Deputy Chairman, as the case may be.

Vacation and resignation of, and removal from, the offices of Chairman and Deputy Chairman.

183. A member holding office as Chairman or Deputy Chairman of a Legislative Council—

(*a*) shall vacate his office if he ceases to be a member of the Council,

(*b*) may at any time by writing under his hand addressed, if such member is the Chairman, to the Deputy Chairman, and if such member is the Deputy Chairman, to the Chairman, resign his office; and

(*c*) may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council:

Provided that no resolution for the purpose of clause (*c*) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman.

184. (1) While the office of Chairman is vacant, the duties of the office shall be performed by the Deputy Chairman or, if the office of Deputy Chairman is also vacant, by such member of the Council as the Governor may appoint for the purpose.

(2) During the absence of the Chairman from any sitting of the Council the Deputy Chairman or, if he is also absent, such person as may be determined by the rules of procedure

of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as Chairman.

The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration.

185. (1) At any sitting of the Legislative Council, while any resolution for the removal of the Chairman from his office is under consideration, the Chairman, or while any resolution for the removal of the Deputy Chairman from his office is under consideration, the Deputy Chairman, shall not, though he is present, preside, and the provisions of clause (2) of article 184 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Chairman or, as the case may be, the Deputy Chairman is absent.

(2) The Chairman shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Council while any resolution for his removal from office is under consideration in the Council and shall, notwithstanding anything in article 189, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

Salaries and allowances of the Speaker and Deputy Speaker and the Chairman and Deputy Chairman.

186. There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly, and to the Chairman and the Deputy Chairman of the Legislative Council, such salaries and allowances as may be respectively fixed by the Legislature of the State by law and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

Secretariat of State Legislature.

187. (1) The House or each House of the Legislature of a State shall have a separate secretarial staff:

Provided that nothing in this clause shall, in the case of the Legislature of a State having a Legislative Council, be construed as preventing the creation of posts common to both Houses of such Legislature.

(2) The Legislature of a State may by law regulate the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the House or Houses of the Legislature of the State.

(3) Until provision is made by the Legislature of the State under clause (2), the Governor may, after consultation with the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, as the case may be, make rules regulating the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the Assembly or

the Council, and any rules so made shall have effect subject to the provisions of any law made under the said clause.

*Conduct of Business.*

Oath or affirmation by members.

188. Every member of the Legislative Assembly or the Legislative Council of a State shall, before taking his seat, make and subscribe before the Governor, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

Voting in Houses, power of Houses to act notwithstanding vacancies and quorum.

189. (1) Save as otherwise provided in this Constitution all questions at any sitting of a House of the Legislature of a State shall be determined by a majority of votes of the members present and voting, other than the Speaker or Chairman, or person acting as such.

The Speaker or Chairman, or person acting as such, shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of vote.

(2) A House of the Legislature of a State shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislature of a State shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled to do sat or voted or otherwise took part in the proceedings.

(3) Until the Legislature of the State by law otherwise provides, the quorum to constitute a meeting of a House of the Legislature of a State shall be ten members or one-tenth of the total number of members of the House, whichever is greater.

(4) If at any time during a meeting of the Legislative Assembly or the Legislative Council of a State there is no quorum, it shall be the duty of the Speaker or Chairman, or person acting as such, either to adjourn the House or to suspend the meeting until there is a quorum.

*Disqualifications of Members.*

Vacation of seats.

190. (1) No person shall be a member of both Houses of the Legislature of a State and provision shall be made by the Legislature of the State by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

(2) No person shall be a member of the Legislatures of two or more States specified in the First Schedule and if a person is chosen a member of the Legislatures of two or more

such States, then, at the expiration of such period as may be specified in rules made by the President, that person's seat in the Legislatures of all such States shall become vacant, unless he has previously resigned his seat in the Legislatures of all but one of the States.

(3) If a member of a House of the Legislature of a State—

(*a*) becomes subject to any of the disqualifications mentioned in clause (1) of article 191; or

(*b*) resigns his seat by writing under his hand addressed to the Speaker or the Chairman, as the case may be,

his seat shall thereupon become vacant.

(4) If for a period of sixty days a member of a House of the Legislature of a State is without permission of the House absent from all meetings thereof, the House may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

Disqualifications for membership.

191. (1) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly or Legislative Council of a State—

(*a*) if he holds any office of profit under the Government of India or the Government of any State specified in the First Schedule, other than an office declared by the Legislature of the State by law not to disqualify its holder;

(*b*) if he is of unsound mind and stands so declared by a competent court;

(*c*) if he is an undischarged insolvent;

(*d*) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State;

(*e*) if he is so disqualified by or under any law made by Parliament.

(2) For the purposes of this article, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State specified in the First Schedule by reason only that he is a Minister either for the Union or for such State.

Decision on questions as to disqualifications of members.

192. (1) If any question arises as to whether a member of a House of the Legislature of a State has become subject to any of the disqualifications mentioned in clause (1) of article 191, the question shall be referred for the decision of the Governor and his decision shall be final.

(2) Before giving any decision on any such question, the Governor shall obtain the opinion of the Election Commission and shall act according to such opinion.

Penalty for sitting and voting before making oath or affirmation under article 188 or when not qualified or when disqualified.

193. If a person sits or votes as a member of the Legislative Assembly or the Legislative Council of a State before he has complied with the requirements of article 188, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament or the Legislature of the State, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the State.

*Powers, Privileges and Immunities of State Legislatures and their Members.*

Powers, privileges, etc., of the Houses of Legislatures and of the members and committees thereof.

194. (1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of the Legislature, there shall be freedom of speech in the Legislature of every State.

(2) No member of the Legislature of a State shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a House of such a Legislature of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of a House of the Legislature of a State, and of the members and the committees of a House of such Legislature, shall be such as may from time to time be defined by the Legislature by law, and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution.

(4) The provisions of clauses (1), (2) and (3) shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise to take part in the proceedings of, a House of the Legislature of a State or any committee thereof as they apply in relation to members of that Legislature.

195. Members of the Legislative Assembly and the Legislative Council of a State shall be entitled to receive such salaries and allowances as may from time to time be determined by the Legislature of the State by law and, until provision in that respect is so made, salaries and allowances at such rates and upon such conditions as were immediately before the commencement of this Constitution applicable in the case of members of the Legislative Assembly of the corresponding Province.

Salaries and alowances of members.

Legislative Procedure.

196. (1) Subject to the provisions of articles 198 and 207 with respect to Money Bills and other financial Bills, a Bill may originate in either House of the Legislature of a State which has a Legislative Council.

Provisions as to introduction and passing of Bills.

(2) Subject to the provisions of articles 197 and 198, a Bill shall not be deemed to have been passed by the Houses of the Legislature of a State having a Legislative Council unless it has been agreed to by both Houses, either without amendment or with such amendments only as are agreed to by both Houses.

(3) A Bill pending in the Legislature of a State shall not lapse by reason of the prorogation of the House or Houses thereof.

(4) A Bill pending in the Legislative Council of a State which has not been passed by the Legislative Assembly shall not lapse on a dissolution of the Assembly.

(5) A Bill which is pending in the Legislative Assembly of a State, or which having been passed by the Legislative Assembly is pending in the Legislative Council, shall lapse on a dissolution of the Assembly.

197. (1) If after a Bill has been passed by the Legislative Assembly of a State having a Legislative Council and transmitted to the Legislative Council—

Restriction on powers of Legislative Council as to Bills other than Money Bills.

(*a*) the Bill is rejected by the Council; or

(*b*) more than three months elapse from the date on which the Bill is laid before the Council without the Bill being passed by it; or

(*c*) the Bill is passed by the Council with amendments to which the Legislative Assembly does not agree,

the Legislative Assembly may, subject to the rules regulating its procedure, pass the Bill again in the same or in any subsequent session with or without such amendments, if any, as have been made, suggested or agreed to by the Legislative Council and then transmit the Bill as so passed to the Legislative Council.

(2) If after a Bill has been so passed for the second time by the Legislative Assembly and transmitted to the Legislative Council—

(*a*) the Bill is rejected by the Council; or

(*b*) more than one month elapses from the date on which the Bill is laid before the Council without the Bill being passed by it; or

(*c*) the Bill is passed by the Council with amendments to which the Legislative Assembly does not agree,

the Bill shall be deemed to have been passed by the Houses of the Legislature of the State in the form in which it was passed by the Legislative Assembly for the second time with such amendments, if any, as have been made or suggested by the Legislative Council and agreed to by the Legislative Assembly.

(3) Nothing in this article shall apply to a Money Bill.

Special procedure in respect of Money Bills.

198. (1) A Money Bill shall not be introduced in a Legislative Council.

(2) After a Money Bill has been passed by the Legislative Assembly of a State having a Legislative Council, it shall be transmitted to the Legislative Council for its recommendations, and the Legislative Council shall within a period of fourteen days from the date of its receipt of the Bill return the Bill to the Legislative Assembly with its recommendations, and the Legislative Assembly may thereupon either accept or reject all or any of the recommendations of the Legislative Council.

(3) If the Legislative Assembly accepts any of the recommendations of the Legislative Council, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Legislative Council and accepted by the Legislative Assembly.

(4) If the Legislative Assembly does not accept any of the recommendations of the Legislative Council, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the Legislative Assembly without any of the amendments recommended by the Legislative Council.

(5) If a Money Bill passed by the Legislative Assembly and transmitted to the Legislative Council for its recommendations is not returned to the Legislative Assembly within the said period of fourteen days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the Legislative Assembly.

Definition of "Money Bills".

199. (1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely :—

(*a*) the imposition, abolition, remission, alteration or regulation of any tax ;

(*b*) the regulation of the borrowing of money or the giving of any guarantee by the State, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the State ;

(*c*) the custody of the Consolidated Fund or the Contingency Fund of the State, the payment of moneys into or the withdrawal of moneys from any such Fund ;

(*d*) the appropriation of moneys out of the Consolidated Fund of the State ;

(*e*) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of the State, or the increasing of the amount of any such expenditure ;

(*f*) the receipt of money on account of the Consolidated Fund of the State or the public account of the State or the custody or issue of such money ; or

(*g*) any matter incidental to any of the matters specified in sub-clauses (*a*) to (*f*).

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill introduced in the Legislature of a State which has a Legislative Council is a Money Bill or not, the decision of the Speaker of the Legislative Assembly of such State thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Legislative Council under article 198, and when it is presented to the Governor for assent under article 200, the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

Assent to Bills.

200. When a Bill has been passed by the Legislative Assembly of a State or, in the case of a State having a Legislative Council, has been passed by both Houses of the Legislature of the State, it shall be presented to the Governor and the Governor shall declare either that he assents to the

Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President :

Provided that the Governor may, as soon as possible after the presentation to him of the Bill for assent, return the Bill if it is not a Money Bill together with a message requesting that the House or Houses will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the House or Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the House or Houses with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom :

Provided further that the Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which in the opinion of the Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is by this Constitution designed to fill.

Bills reserved for consideration.

201. When a Bill is reserved by a Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom :

Provided that, where the Bill is not a Money Bill, the President may direct the Governor to return the Bill to the House or, as the case may be, the Houses of the Legislature of the State together with such a message as is mentioned in the first proviso to article 200 and, when a Bill is so returned, the House or Houses shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by the House or Houses with or without amendment, it shall be presented again to the President for his consideration.

*Procedure in Financial Matters.*

Annual financial statement.

202. (1) The Governor shall in respect of every financial year cause to be laid before the House or Houses of the Legislature of the State a statement of the estimated receipts and expenditure of the State for that year, in this Part referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(*a*) the sums required to meet expenditure described by this Constitution as expenditure charged upon the Consolidated Fund of the State ; and

(*b*) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of the State; and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the Consolidated Fund of each State:—

(*a*) the emoluments and allowances of the Governor and other expenditure relating to his office;

(*b*) the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly and, in the case of a State having a Legislative Council, also of the Chairman and the Deputy Chairman of the Legislative Council;

(*c*) debt charges for which the State is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;

(*d*) expenditure in respect of the salaries and allowances of Judges of any High Court;

(*e*) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;

(*f*) any other expenditure declared by this Constitution, or by the Legislature of the State by law, to be so charged.

Procedure in Legislature with respect to estimates.

203. (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of a State shall not be submitted to the vote of the Legislative Assembly, but nothing in this clause shall be construed as preventing the discussion in the Legislature of any of those estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the Governor.

Appropriation Bills.

204. (1) As soon as may be after the grants under article 203 have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State of all moneys required to meet—

(*a*) the grants so made by the Assembly; and

(*b*) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the statement previously laid before the House or Houses.

(2) No amendment shall be proposed to any such Bill in the House or either House of the Legislature of the State which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of the State and the decision of the person presiding as to whether an amendment is inadmissible under this clause shall be final.

(3) Subject to the provisions of articles 205 and 206, no money shall be withdrawn from the Consolidated Fund of the State except under appropriation made by law passed in accordance with the provisions of this article.

Supplementary, additional or excess grants.

205. (1) The Governor shall—

(*a*) if the amount authorised by any law made in accordance with the provisions of article 204 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(*b*) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year,

cause to be laid before the House or the Houses of the Legislature of the State another statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly of the State a demand for such excess, as the case may be.

(2) The provisions of articles 202, 203 and 204 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure of the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure or grant.

Votes on account, votes of credit and exceptional grants.

206. (1) Notwithstanding anything in the foregoing provisions of this Chapter, the Legislative Assembly of a State shall have power—

(*a*) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 203

for the voting of such grant and the passing of the law in accordance with the provisions of article 204 in relation to that expenditure;

(*b*) to make a grant for meeting an unexpected demand upon the resources of the State when on account of the magnitude or the indefinite character of the service the demand cannot be stated with the details ordinarily given in an annual financial statement;

(*c*) to make an exceptional grant which forms no part of the current service of any financial year;

and the Legislature of the State shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of the State for the purposes for which the said grants are made.

(2) The provisions of articles 203 and 204 shall have effect in relation to the making of any grant under clause (1) and to any law to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure.

**Special provisions as to financial Bills.**

207. (1) A Bill or amendment making provision for any of the matters specified in sub-clauses (*a*) to (*f*) of clause (1) of article 199 shall not be introduced or moved except on the recommendation of the Governor, and a Bill making such provision shall not be introduced in a Legislative Council:

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of a State shall not be passed by a House of the Legislature of the State unless the Governor has recommended to that House the consideration of the Bill.

*Procedure Generally.*

Rules of procedure.

208. (1) A House of the Legislature of a State may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business.

(2) Until rules are made under clause (1), the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature for the corresponding Province shall have effect in relation to the Legislature of the State subject to such modifications and adaptations as may be made therein by the Speaker of the Legislative Assembly, or the Chairman of the Legislative Council, as the case may be.

(3) In a State having a Legislative Council the Governor, after consultation with the Speaker of the Legislative Assembly and the Chairman of the Legislative Council, may make rules as to the procedure with respect to communications between the two Houses.

Regulation by law of procedure in the Legislature of the State in relation to financial business.

209. The Legislature of a State may, for the purpose of the timely completion of financial business, regulate by law the procedure of and the conduct of business in, the House or Houses of the Legislature of the State in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of the State, and, if and so far as any provision of any law so made is inconsistent with any rule made by the House or either House of the Legislature of the State under clause (1) of article 208 or with any rule or standing order having effect in relation to the Legislature of the State under clause (2) of that article, such provision shall prevail.

Language to be used in the Legislature.

210. (1) Notwithstanding anything in Part XVII, but subject to the provisions of article 348, business in the Legislature of a State shall be transacted in the official language or languages of the State or in Hindi or in English :

Provided that the Speaker of the Legislative Assembly or Chairman of the Legislative Council, or person acting as such, as the case may be, may permit any member who cannot adequately express himself in any of the languages aforesaid to address the House in his mother-tongue.

(2) Unless the Legislature of the State by law otherwise provides, this article shall, after the expiration of a period of fifteen years from the commencement of this Constitution, have effect as if the words "or in English" were omitted therefrom.

211. No discussion shall take place in the Legislature of a State with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties.

Restriction on discussion in the Legislature.

212. (1) The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure.

Courts not to inquire into proceedings of the Legislature.

(2) No officer or member of the Legislature of a State in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in the Legislature shall be subject to the jurisdiction of any Court in respect of the exercise by him of those powers.

## CHAPTER IV.—LEGISLATIVE POWER OF THE GOVERNOR.

213. (1) If at any time, except when the Legislative Assembly of a State is in session, or where there is a Legislative Council in a State, except when both Houses of the Legislature are in session, the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require:

Power of Governor to promulgate Ordinances during recess of Legislature.

Provided that the Governor shall not, without instructions from the President, promulgate any such Ordinance if—

(*a*) a Bill containing the same provisions would under this Constitution have required the previous sanction of the President for the introduction thereof into the Legislature; or

(*b*) he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the President; or

(*c*) an Act of the Legislature of the State containing the same provisions would under this Constitution have been invalid unless, having been reserved for the consideration of the President, it had received the assent of the President.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of the Legislature of the State assented to by the Governor, but every such Ordinance—

(*a*) shall be laid before the Legislative Assembly of the State, or where there is a Legislative Council in the State, before both the Houses, and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature, or if before the expiration of that period a resolution disapproving it is passed by the Legislative Assembly and agreed to

by the Legislative Council, if any, upon the passing of the resolution or, as the case may be, on the resolution being agreed to by the Council; and

(*b*) may be withdrawn at any time by the Governor.

*Explanation.*—Where the Houses of the Legislature of a State having a Legislative Council are summoned to reassemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which would not be valid if enacted in an Act of the Legislature of the State assented to by the Governor, it shall be void:

Provided that, for the purposes of the provisions of this Constitution relating to the effect of an Act of the Legislature of a State which is repugnant to an Act of Parliament or an existing law with respect to a matter enumerated in the Concurrent List, an Ordinance promulgated under this article in pursuance of instructions from the President shall be deemed to be an Act of the Legislature of the State which has been reserved for the consideration of the President and assented to by him.

## CHAPTER V.—THE HIGH COURTS IN THE STATES.

High Courts for States.

214. (1) There shall be a High Court for each State.

(2) For the purposes of this Constitution the High Court exercising jurisdiction in relation to any Province immediately before the commencement of this Constitution shall be deemed to be the High Court for the corresponding State.

(3) The provisions of this Chapter shall apply to every High Court referred to in this article.

High Courts to be courts of record.

215. Every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.

Constitution of High Courts.

216. Every High Court shall consist of a Chief Justice and such other Judges as the President may from time to time deem it necessary to appoint:

Provided that the Judges so appointed shall at no time exceed in number such maximum number as the President may, from time to time, by order fix in relation to that Court.

*Part VI.—The States in Part A of the First Schedule.—Arts. 217-218.*

**Appointment and conditions of the office of a Judge of a High Court.**

217. (1) Every Judge of a High Court shall be appointed by the President by warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the State, and, in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court, and shall hold office until he attains the age of sixty years :

Provided that—

(*a*) a Judge may, by writing under his hand addressed to the President, resign his office ;

(*b*) a Judge may be removed from his office by the President in the manner provided in clause (4) of article 124 for the removal of a Judge of the Supreme Court ;

(*c*) the office of a Judge shall be vacated by his being appointed by the President to be a Judge of the Supreme Court or by his being transferred by the President to any other High Court within the territory of India.

(2) A person shall not be qualified for appointment as a Judge of a High Court unless he is a citizen of India and—

(*a*) has for at least ten years held a judicial office in the territory of India ; or

(*b*) has for at least ten years been an advocate of a High Court in any State specified in the First Schedule or of two or more such Courts in succession.

*Explanation.*—For the purposes of this clause—

(*a*) in computing the period during which a person has been an advocate of a High Court, there shall be included any period during which the person has held judicial office after he became an advocate ;

(*b*) in computing the period during which a person has held judicial office in the territory of India or been an advocate of a High Court, there shall be included any period before the commencement of this Constitution during which he has held judicial office in any area which was comprised before the fifteenth day of August, 1947, within India as defined by the Government of India Act, 1935, or has been an advocate of any High Court in any such area, as the case may be.

**Application of certain provisions relating to Supreme Court to High Courts.**

218. The provisions of clauses (4) and (5) of article 124 shall apply in relation to a High Court as they apply in relation to the Supreme Court with the substitution of references to the High Court for references to the Supreme Court.

Oath or affirmation by Judges of High Courts.

219. Every person appointed to be a Judge of a High Court in a State shall, before he enters upon his office, make and subscribe before the Governor of the State, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

Prohibition of practising in courts or before any authority by Judges.

220. No person who has held office as a Judge of a High Court after the commencement of this Constitution shall plead or act in any court or before any authority within the territory of India.

Salaries etc., of Judges.

221. (1) There shall be paid to the Judges of each High Court such salaries as are specified in the Second Schedule.

(2) Every Judge shall be entitled to such allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such allowances and rights as are specified in the Second Schedule:

Provided that neither the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

Transfer of a Judge from one High Court to another.

222. (1) The President may, after consultation with the Chief Justice of India, transfer a Judge from one High Court to any other High Court within the territory of India.

(2) When a Judge is so transferred, he shall, during the period he serves as a Judge of the other Court, be entitled to receive in addition to his salary such compensatory allowance as may be determined by Parliament by law and, until so determined, such compensatory allowance as the President may by order fix.

Appointment of acting Chief Justice.

223. When the office of Chief Justice of a High Court is vacant or when any such Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose.

Attendance of retired Judges at sittings of High Courts.

224. Notwithstanding anything in this Chapter, the Chief Justice of a High Court for any State may at any time, with the previous consent of the President, request any person who has held the office of a Judge of that Court or of any other High Court to sit and act as a Judge of the High Court for that State, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the

President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that High Court:

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that High Court unless he consents so to do.

Jurisdiction of existing High Courts.

225. Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by this Constitution, the jurisdiction of, and the law administered in, any existing High Court, and the respective powers of the Judges thereof in relation to the administration of justice in the Court, including any power to make rules of Court and to regulate the sittings of the Court and of members thereof sitting alone or in Division Courts, shall be the same as immediately before the commencement of this Constitution:

Provided that any restriction to which the exercise of original jurisdiction by any of the High Courts with respect to any matter concerning the revenue or concerning any act ordered or done in the collection thereof was subject immediately before the commencement of this Constitution shall no longer apply to the exercise of such jurisdiction.

Power of High Courts to issue certain writs.

226. (1) Notwithstanding anything in article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority including in appropriate cases any Government, within those territories directions, orders or writs, including writs in the nature of *habeas corpus, mandamus,* prohibition, *quo warranto* and *certiorari,* or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred on a High Court by clause (1) shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32.

Power of superintendence over all courts by the High Court.

227. (1) Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.

(2) Without prejudice to the generality of the foregoing provision, the High Court may—

(*a*) call for returns from such courts;

(*b*) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and

(*c*) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts.

(3) The High Court may also settle tables of fees to be allowed to the Sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein :

Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) shall not be inconsistent with the provision of any law for the time being in force, and shall require the previous approval of the Governor.

(4) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces.

Transfer of certain cases to High Court.

228. If the High Court is satisfied that a case pending in a court subordinate to it involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the case, it shall withdraw the case and may—

(*a*) either dispose of the case itself, or

(*b*) determine the said question of law and return the case to the court from which the case has been so withdrawn together with a copy of its judgment on such question, and the said court shall on receipt thereof proceed to dispose of the case in conformity with such judgment.

Officers and servants and the expenses of High Courts.

229. (1) Appointments of officers and servants of a High Court shall be made by the Chief Justice of the Court or such other Judge or officer of the Court as he may direct :

Provided that the Governor of the State in which the High Court has its principal seat may by rule require that in such cases as may be specified in the rule no person not already attached to the Court shall be appointed to any office connected with the Court save after consultation with the State Public Service Commission.

(2) Subject to the provisions of any law made by the Legislature of the State, the conditions of service of officers and servants of a High Court shall be such as may be prescribed by rules made by the Chief Justice of the Court or by some other Judge or officer of the Court authorised by the Chief Justice to make rules for the purpose :

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor of the State in which the High Court has its principal seat.

(3) The administrative expenses of a High Court, including all salaries, allowances and pensions payable to or in respect

of the officers and servants of the Court, shall be charged upon the Consolidated Fund of the State, and any fees or other moneys taken by the Court shall form part of that Fund.

Extension of or exclusion from the jurisdiction of High Courts.

230. Parliament may by law—

(*a*) extend the jurisdiction of a High Court to, or

(*b*) exclude the jurisdiction of a High Court from,

any State specified in the First Schedule other than, or any area not within, the State in which the High Court has its principal seat.

Restrictions on the powers of the Legislatures of States to make laws with respect to jurisdiction of a High Court in a State having jurisdiction outside that State.

231. Where a High Court exercises jurisdiction in relation to any area outside the State in which it has its principal seat, nothing in this Constitution shall be construed—

(*a*) as empowering the Legislature of the State in which the Court has its principal seat to increase, restrict or abolish that jurisdiction;

(*b*) as empowering the Legislature of a State specified in Part A or Part B of the First Schedule in which any such area is situate, to abolish that jurisdiction; or

(*c*) as preventing the Legislature having power to make laws in that behalf for any such area, from passing, subject to the provisions of clause (*b*), such laws with respect to the jurisdiction of the Court in relation to that area as it would be competent to pass if the principal seat of the Court were in that area.

Interpretation.

232. Where a High Court exercises jurisdiction in relation to more than one State specified in the First Schedule or in relation to a State and an area not forming part of the State—

(*a*) references in this Chapter to the Governor in relation to the Judges of a High Court shall be construed as references to the Governor of the State in which the Court has its principal seat;

(*b*) the reference to the approval by the Governor of rules, forms and tables for subordinate courts shall be construed as a reference to the approval thereof by the Governor or the Rajpramukh of the State in which the subordinate court is situate, or if it is situate in an area not forming part of any State specified in Part A or Part B of the First Schedule, by the President; and

as may be prescribed in that behalf by the President" shall be inserted.

(*c*) references to the Consolidated Fund of the State shall be construed as references to the Consolidated Fund of the State in which the Court has its principal seat.

## CHAPTER VI.—SUBORDINATE COURTS.

Appointment of district judges.

233. (1) Appointments of persons to be, and the posting and promotion of, district judges in any State shall be made by the Governor of the State in consultation with the High Court exercising jurisdiction in relation to such State.

(2) A person not already in the service of the Union or of the State shall only be eligible to be appointed a district judge if he has been for not less than seven years an advocate or a pleader and is recommended by the High Court for appointment.

Recruitment of persons other than district judges to the judicial service.

234. Appointments of persons other than district judges to the judicial service of a State shall be made by the Governor of the State in accordance with rules made by him in that behalf after consultation with the State Public Service Commission and with the High Court exercising jurisdiction in relation to such State.

Control over subordinate courts.

235. The control over district courts and courts subordinate thereto including the posting and promotion of, and the grant of leave to, persons belonging to the judicial service of a State and holding any post inferior to the post of district judge shall be vested in the High Court, but nothing in this article shall be construed as taking away from any such person any right of appeal which he may have under the law regulating the conditions of his service or as authorizing the High Court to deal with him otherwise than in accordance with the conditions of his service prescribed under such law.

Interpretation.

236. In this Chapter—

(*a*) the expression "district judge" includes judge of a city civil court, additional district judge, joint district judge, assistant district judge, chief judge of a small cause court, chief presidency magistrate, additional chief presidency magistrate, sessions judge, additional sessions judge and assistant sessions judge;

(*b*) the expression "judicial service" means a service consisting exclusively of persons intended to fill the post of district judge and other civil judicial posts inferior to the post of district judge.

237. The Governor may by public notification direct that the foregoing provisions of this Chapter and any rules made thereunder shall, with effect from such date as may be fixed by him in that behalf, apply in relation to any class or classes of magistrates in the State as they apply in relation to persons appointed to the judicial service of the State subject to such exceptions and modifications as may be specified in the notification.

Application of the provisions of this Chapter to certain class or classes of magistrates.

## PART VII.

## THE STATES IN PART B OF THE FIRST SCHEDULE.

238. The provisions of Part VI shall apply in relation to the States specified in Part B of the First Schedule as they apply in relation to the States specified in Part A of that Schedule subject to the following modifications and omissions, namely :—

Application of provisions of Part VI to States in Part B of the First Schedule.

(1) For the word "Governor" wherever it occurs in the said Part VI, except where it occurs for the second time in clause (*b*) of article 232, the word "Rajpramukh" shall be substituted.

(2) In Article 152, for the word and letter "Part A" the word and letter "Part B" shall be substituted.

(3) Articles 155, 156 and 157 shall be omitted.

(4) In article 158—

(*i*) in clause (1), for the words "be appointed" the word "becomes" shall be substituted;

(*ii*) for clause (3), the following clause shall be substituted, namely :—

"(3) The Rajpramukh shall, unless he has his own residence in the principal seat of Government of the State, be entitled without payment of rent to the use of an official residence and shall be also entitled to such allowances and privileges as the President may, by general or special order, determine.";

(*iii*) in clause (4), the words "emoluments and" shall be omitted.

(5) In article 159, after the words "seniormost Judge of that Court available" the words "or in such other manner as may be prescribed in that behalf by the President" shall be inserted.

(6) In article 164, for the proviso to clause (1), the following proviso shall be substituted, namely :—

"Provided that in the State of Madhya Bharat there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work."

(7) In article 168, for clause (1), the following clause shall be substituted, namely :—

"(1) For every State there shall be a Legislature which shall consist of the Rajpramukh and—

(*a*) in the State of Mysore, two Houses ;

(*b*) in other States, one House."

(8) In article 186, for the words "as are specified in the Second Schedule" the words "as the Rajpramukh may determine" shall be substituted.

(9) In article 195, for the words "as were immediately before the commencement of this Constitution applicable in the case of members of the Legislative Assembly of the corresponding Province" the words "as the Rajpramukh may determine" shall be substituted.

(10) In clause (3) of article 202—

(*i*) for sub-clause (*a*), the following sub-clause shall be substituted, namely :—

"(*a*) the allowances of the Rajpramukh and other expenditure relating to his office as determined by the President by general or special order ;"

(*ii*) for sub-clause (*f*), the following sub-clauses shall be substituted, namely :—

"(*f*) in the case of the State of Travancore-Cochin, a sum of fifty-one lakhs of rupees required to be paid annually to the Devaswom fund under the covenant entered into before the commencement of this Constitution by the Rulers of the Indian States of Travancore and Cochin for the formation of the United State of Travancore and Cochin ;

(*g*) any other expenditure declared by this Constitution, or by the Legislature of the State by law, to be so charged."

(11) In article 208, for clause (2), the following clause shall be substituted, namely :—

"(2) Until rules are made under clause (1), the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature for the State or, where no house of the Legislature for the State existed, the rules of procedure and standing orders in force immediately before such commencement with

respect to the Legislative Assembly of such Province as may be specified in that behalf by the Rajpramukh of the State, shall have effect in relation to the Legislature of the State subject to such modifications and adaptations as may be made therein by the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, as the case may be."

(12) In clause (2) of article 214, for the word "Province" the words "Indian State" shall be substituted.

(13) For article 221, the following article shall be substituted, namely :— Salaries, etc., of Judges.

"221. (1) There shall be paid to the Judges of each High Court such salaries as may be determined by the President after consultation with the Rajpramukh.

(2) Every Judge shall be entitled to such allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such allowances and rights as may be determined by the President after cosultation with the Rajpramukh :

Provided that neither the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment."

## PART VIII.

## THE STATES IN PART C OF THE FIRST SCHEDULE.

239. (1) Subject to the other provisions of this Part, a State specified in Part C of the First Schedule shall be administered by the President acting, to such extent as he thinks fit, through a Chief Commissioner or a Lieutenant-Governor to be appointed by him or through the Government of a neighbouring State : Administration of States in Part C of the First Schedule.

Provided that the President shall not act through the Government of a neighbouring State save after —

(*a*) consulting the Government concerned ; and

(*b*) ascertaining in such manner as the President considers most appropriate the views of the people of the State to be so administered.

(2) In this article, references to a State shall include references to a part of a State.

*Part VIII.—The States in Part C of the First Schedule.—Arts. 240-242.*

Creation or continuance of local Legislatures or Council of Advisers or Ministers.

240. (1) Parliament may by law create or continue for any State specified in Part C of the First Schedule and administered through a Chief Commissioner or Lieutenant-Governor—

(*a*) a body, whether nominated, elected or partly nominated and partly elected, to function as a Legislature for the State; or

(*b*) a Council of Advisers or Ministers,

or both with such constitution, powers and functions, in each case, as may be specified in the law.

(2) Any such law as is referred to in clause (1) shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending the Constitution.

High Courts for States in Part C of the First Schedule.

241. (1) Parliament may by law constitute a High Court for a State specified in Part C of the First Schedule or declare any court in any such State to be a High Court for all or any of the purposes of this Constitution.

(2) The provisions of Chapter V of Part VI shall apply in relation to every High Court referred to in clause (1) as they apply in relation to a High Court referred to in article 214 subject to such modifications or exceptions as Parliament may by law provide.

(3) Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by or under this Constitution, every High Court exercising jurisdiction immediately before the commencement of this Constitution in relation to any State specified in Part C of the First Schedule or any area included therein shall continue to exercise such jurisdiction in relation to that State or area after such commencement.

(4) Nothing in this article derogates from the power of Parliament to extend or exclude the jurisdiction of a High Court in any State specified in Part A or Part B of the First Schedule to, or from, any State specified in Part C of that Schedule or any area included within that State.

Coorg.

242. (1) Until Parliament by law otherwise provides, the constitution, powers and functions of the Coorg Legislative Council shall be the same as they were immediately before the commencement of this Constitution.

(2) The arrangements with respect to revenues collected in Coorg and expenses in respect of Coorg shall, until other provision is made in that behalf by the President by order, continue unchanged.

*Part IX.—The Territories in Part D of the First Schedule and other Territories not specified in that Schedule.—Art. 243.*

*Part X.—The Scheduled and Tribal Areas.—Art. 244.*

*Part XI.—Relations between the Union and the States.—Art. 245.*

## PART IX.

## THE TERRITORIES IN PART D OF THE FIRST SCHEDULE AND OTHER TERRITORIES NOT SPECIFIED IN THAT SCHEDULE.

243. (1) Any territory specified in Part D of the First Schedule and any other territory comprised within the territory of India but not specified in that Schedule shall be administered by the President acting, to such extent as he thinks fit, through a Chief Commissioner other authority to be appointed by him.

Administration of territories specified in Part D of the First Schedule and other territories not specified in that Schedule.

(2) The President may make regulations for the peace and good government of any such territory and any regulation so made may repeal or amend any law made by Parliament or any existing law which is for the time being applicable to such territory and, when promulgated by the President, shall have the same force and effect as an Act of Parliament which applies to such territory.

## PART X.

## THE SCHEDULED AND TRIBAL AREAS.

244. (1) The provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State specified in Part A or Part B of the First Schedule other than the State of Assam.

Administration of Scheduled Areas and tribal areas.

(2) The provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the State of Assam.

## PART XI.

## RELATIONS BETWEEN THE UNION AND THE STATES.

### CHAPTER I.—LEGISLATIVE RELATIONS.

*Distribution of Legislative Powers.*

245. (1) Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.

Extent of laws made by Parliament and by the Legislatures of States.

(2) No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.

Subject-matter of laws made by Parliament and by the Legislatures of States.

246. (1) Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the "Union List").

(2) Notwithstanding anything in clause (3), Parliament, and, subject to clause (1), the Legislature of any State specified in Part A or Part B of the First Schedule also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the "Concurrent List").

(3) Subject to clauses (1) and (2), the Legislature of any State specified in Part A or Part B of the First Schedule has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the "State List").

(4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included in Part A or Part B of the First Schedule notwithstanding that such matter is a matter enumerated in the State List.

Power of Parliament to provide for the establishment of certain additional courts.

247. Notwithstanding anything in this Chapter, Parliament may by law provide for the establishment of any additional courts for the better administration of laws made by Parliament or of any existing law with respect to a matter enumerated in the Union List.

Residuary powers of legislation.

248. (1) Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.

(2) Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.

Power of Parliament to legislate with respect to a matter in the State List in the national interest.

249. (1) Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter while the resolution remains in force.

(2) A resolution passed under clause (1) shall remain in force for such period not exceeding one year as may be specified therein :

Provided that, if and so often as a resolution approving the continuance in force of any such resolution is passed in the manner provided in clause (1), such resolution shall continue in force for a further period of one year from the date on which under this clause it would otherwise have ceased to be in force.

(3) A law made by Parliament which Parliament would not but for the passing of a resolution under clause (1) have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the resolution has ceased to be in force, except as respects things done or omitted to be done before the expiration of the said period.

**Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation.**

250. (1) Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation of Emergency is in operation, have power to make laws for the whole or any part of the territory of India with respect to any of the matters enumerated in the State List.

(2) A law made by Parliament which Parliament would not but for the issue of a Proclamation of Emergency have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period.

**Inconsistency between laws made by Parliament under articles 249 and 250 and laws made by the Legislatures of States.**

251. Nothing in articles 249 and 250 shall restrict the power of the Legislature of a State to make any law which under this Constitution it has power to make, but if any provision of a law made by the Legislature of a State is repugnant to any provision of a few made by Parliament which Parliament has under either of the said articles power to make, the law made by Parliament, whether passed before or after the law made by the Legislature of the State, shall prevail, and the law made by the Legislature of the State shall to the extent of the repugnancy, but so long only as the law made by Parliament continues to have effect, be inoperative.

Power of Parliament to legislate for two or more States by consent and adoption of such legislation by any other States.

252. (1) If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided in articles 249 and 250 should be regulated in such States by Parliament by law, and if resolutions to that effect are passed by all the Houses of the Legislatures of those States, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly, and any Act so passed shall apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or, where there are two Houses, by each of the Houses of the Legislature of that State.

(2) Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State.

Legislation for giving effect to international agreements.

253. Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.

Inconsistency between laws made by Parliament and laws made by the Legislatures of States.

254. (1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

(2) Where a law made by the Legislature of a State specified in Part A or Part B of the First Schedule with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions or an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State:

Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to

the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State.

Requirements as to recommendations and previous sanctions to be regarded as matters of procedure only.

255. No Act of Parliament or of the Legislature of a State specified in Part A or Part B of the First Schedule, and no provision in any such Act, shall be invalid by reason only that some recommendation or previous sanction required by this Constitution was not given, if assent to that Act was given—

(*a*) where the recommendation required was that of the Governor, either by the Governor or by the President;

(*b*) where the recommendation required was that of the Rajpramukh, either the Rajpramukh or by the President;

(*c*) where the recommendation or previous sanction required was that of the President, by the President.

## CHAPTER II.—ADMINISTRATIVE RELATIONS.

### *General.*

Obligation of States and the Union.

256. The executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.

Control of the Union over States in certain cases.

257. (1) The executive power of every State shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union, and the executive power of the Union shall extent to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.

(2) The executive power of the Union shall also extend to the giving of directions to a State as to the construction and maintenance of means of communication declared in the direction to be of national or military importance:

Provided that nothing in this clause shall be taken as restricting the power of Parliament to declare highways or waterways to be national highways or national waterways or the power of the Union with respect to the highways or waterways so declared or the power of the Union to construct and maintain means of communication as part of its functions with respect to naval, military and air force works.

(3) The executive power of the Union shall also extend to the giving of directions to a State as to the measures to be taken for the protection of the railways within the State.

(4) Wherein carrying out any direction given to a State under clause (2) as to the construction or maintenance of any means of communication or under clause (3) as to the measures to be taken for protection of any railway, costs have been incurred in excess of those which would have been incurred in the discharge of the normal duties of the State if such direction had not been given, there shall be paid by the Government of India to the State such sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of the extra costs so incurred by the State.

Power of the Union to confer powers, etc., on States in certain cases.

258. (1) Notwithstanding anything in this Constitution, the President may, with the consent of the Government of a State, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the Union extends.

(2) A law made by Parliament which applies in any State may, notwithstanding that it relates to a matter with respect to which the Legislature of the State has no power to make laws, confer powers and impose duties, or authorise the conferring of powers and the imposition of duties, upon the State or Officers and authorities thereof.

(3) Where by virtue of this article powers and duties have been conferred or imposed upon a State or officers or authorities thereof, there shall be paid by the Government of India to the State such sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of any extra costs of administration incurred by the State in connection with the exercise of those powers and duties.

Armed Forces in States in Part B of the First Schedule.

259. (1) Notwithstanding anything in this Constitution, a State specified in Part B of the First Schedule having any Armed forces immediately before the commencement of this Constitution may, until Parliament by law otherwise provides, continue to maintain the said Forces after such commencement subject to such general or special orders as the President may from time to time issue in that behalf.

(2) Any such Armed Forces as are referred to in clause (1) shall form part of the Armed Forces of the Union,

*Part XI.—Relations between the Union and the States.—Arts. 260-263.*

260. The Government of India may, by agreement with the Government of any territory not being part of the territory of India, undertake any executive, legislative or judicial functions vested in the Government of such territory, but every such agreement shall be subject to, and governed by, any law relating to the exercise of foreign jurisdiction for the time being in force.

**Jurisdiction of the Union in relation to outside India.**

261. (1) Full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and of every State.

**Public acts, records and judicial proceedings.**

(2) The manner in which and the conditions under which the acts, records and proceedings referred to in clause (1) shall be proved and the effect thereof determined shall be as provided by law made by Parliament.

(3) Final judgments or orders delivered or passed by civil courts in any part of the territory of India shall be capable of execution anywhere within that territory according to law.

*Disputes relating to Waters.*

262. (1) Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.

**Adjudication of disputes relating to waters of Inter-State rivers or river valleys.**

(2) Notwithstanding anything in this Constitution Parliament may by law provide that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint as is referred to in clause (1).

*Co-ordination between States.*

263. If at any time it appears to the President that the public interests would be served by the establishment of a Council charged with the duty of—

**Provisions with respect to an Inter-State Council.**

(*a*) inquiring into and advising upon disputes which may have arisen between States;

(*b*) investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States, have a common interest; or

(*c*) making recommendations upon any such subject and in particular, recommendations for the better co-ordination of policy and action with respect to that subject,

it shall be lawful for the President by order to establish such a Council, and to define the nature of the duties to be performed by it and its organization and procedure.

# PART XII.

## FINANCE, PROPERTY, CONTRACTS AND SUITS.

### CHAPTER I.—FINANCE.

*General.*

Interpretation.

264. In this Part, unless the context otherwise requires,—

(*a*) "Finance Commission" means a Finance Commission constituted under article 280;

(*b*) "State" does not include a State specified in Part C of the First Schedule;

(*c*) references to States specified in Part C of the First Schedule shall include references to any territory specified in Part D of the First Schedule and any other territory comprised within the territory of India but not specified in that Schedule.

Taxes not to be imposed save by authority of law.

265. No tax shall be levied or collected except by authority of law.

Consolidated Funds and public accounts of India and of the States.

266. (1) Subject to the provisions of article 267 and to the provisions of this Chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to States, all revenues received by the Government of India, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled "the Consolidated Fund of India", and all revenues received by the Government of a State, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled "the Consolidated Fund of the State".

(2) All other public moneys received by or on behalf of the Government of India or the Government of a State shall be credited to the public account of India or the public account of the State, as the case may be.

(3) No moneys out of the Consolidated Fund of India or the Consolidated Fund of a State shall be appropriated except in accordance with law and for the purposes and in the manner provided in this Constitution.

Contingency Fund.

267. (1) Parliament may by law establish a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of India" into which shall be paid from time to time such sums as may be determined by such law, and the said Fund shall be placed at the disposal of the President

to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen expenditure pending authorization of such expenditure by Parliament by law under article 115 or article 116.

(2) The Legislature of a State may by law establish a Contingency Fund in the nature of an imprest to be entitled "The Contingency Fund of the State of into which shall be paid from time to time such sums as may be determined by such law and the said Fund shall be placed at the disposal of the Governor or Rajpramukh of the State to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen expenditure pending authorization of such expenditure by the Legislature of the State by law under article 205 or article 206.

*Distribution of Revenues between the Union and the States.*

Duties levied by the Union but collected and appropriated by the States.

268. (1) Such stamp duties and such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied by the Government of India but shall be collected—

(*a*) in the case where such duties are leviable within any State specified in Part C of the First Schedule by the Government of India, and

(*b*) in other cases, by the States within which such duties are respectively leviable.

(2) The proceeds in any financial year of any such duty leviable within any State shall not form part of the Consolidated Fund of India, but shall be assigned to that State.

Taxes levied and collected by the Union but assigned to the States.

269. (1) The following duties and taxes shall be levied and collected by the Government of India but shall be assigned to the States in the manner provided in clause (2), namely :—

(*a*) duties in respect of succession to property other than agricultural land ;

(*b*) estate duty in respect of property other than agricultural land ;

(*c*) terminal taxes on goods or passengers carried by railway, sea or air ;

(*d*) taxes on railway fares and freights ;

(*e*) taxes other than stamp duties on transactions in stock-exchanges and futures markets ;

(*f*) taxes on the sale or purchase of newspapers and on advertisements published therein.

(2) The net proceeds in any financial year of any such duty or tax, except in so far as those proceeds represent proceeds attributable to States specified in Part C of the

First Schedule, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that duty or tax is leviable in that year, and shall be distributed among those States in accordance with such principles of distribution as may be formulated by Parliament by law.

Taxes levied and collected by the Union and distributed between the Union and the States.

270. (1) Taxes on income other than agricultural income shall be levied and collected by the Government of India and distributed between the Union and the States in the manner provided in clause (2).

(2) Such percentage, as may be prescribed, of the net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to States specified in Part C of the First Schedule or to taxes payable in respect of Union emoluments, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed.

(3) For the purposes of clause (2), in each financial year such percentage as may be prescribed of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of Union emoluments shall be deemed to represent proceeds attributable to State specified in Part C of the First Schedule.

(4) In this article—

(*a*) "taxes on income" does not include a corporation tax;

(*b*) "prescribed" means—

(*i*) until a Finance Commission has been constituted, prescribed by the President by order, and

(*ii*) after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission;

(*c*) "Union emoluments" includes all emoluments and pensions payable out of the Consolidated Fund of India in respect of which income-tax is chargeable.

Surcharge on certain duties and taxes for purposes of the Union.

271. Notwithstanding anything in articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred to in those articles by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the Consolidated Fund of India.

Taxes which are levied and collected by the Union and may be distributed between the Union and the States.

272. Union duties of excise other than such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied and collected by the Government of India, but, if Parliament by law so provides, there shall be paid out of the Consolidated Fund of India to the States to which the law imposing the duty extends sums equivalent to the whole or any part of the net proceeds of that duty, and those sums shall be distributed among those States in accordance with such principles of distribution as may be formulated by such law.

Grants in lieu of export duty on jute and jute products.

273. (1) There shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of the States of Assam, Bihar, Orissa and West Bengal, in lieu of assignment of any share of the net proceeds in each year of export duty on jute and jute products to those States, such sums as may be prescribed.

(2) The sums so prescribed shall continue to be charged on the Consolidated Fund of India so long as any export duty on jute or jute products continues to be levied by the Government of India or until the expiration of ten years from the commencement of this Constitution, whichever is earlier.

(3) In this article, the expression "prescribed" has the same meaning as in article 270.

Prior recommendation of President required to Bills affecting taxation in which States are interested.

274. (1) No Bill or amendment which imposes or varies any tax or duty in which States are interested, or which varies the meaning of the expression "agricultural income" as defined for the purposes of the enactments relating to Indian income-tax, or which effects the principles on which under any of the foregoing provisions of this Chapter moneys are or may be distributed to States, or which imposes any such surcharge for the purposes of the Union as is mentioned in the foregoing provisions of this Chapter, shall be introduced or moved in either House of Parliament except on the recommendation of the President.

(2) In this article, the expression "tax or duty in which States are interested" means—

(*a*) a tax or duty the whole or part of the net proceeds whereof are assigned to any State; or

(*b*) a tax or duty by reference to the net proceeds whereof sums are for the time being payable out of the Consolidated Fund of India to any State.

**Grants from the Union to certain States.**

275. (1) Such sums as Parliament may by law provide shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of such States as Parliament may determine to be in need of assistance, and different sums may be fixed for different States :

Provided that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of a State such capital and recurring sums as may be necessary to enable that State to meet the costs of such schemes of development as may be undertaken by the State with the approval of the Government of India for the purpose of promoting the welfare of the Scheduled Tribes in that State or raising the level of administration of the Scheduled Areas therein to that of the administration of the rest of the areas of that State :

Provided further that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the State of Assam sums, capital and recurring, equivalent to—

(*a*) the average excess of expenditure over the revenues during the two years immediately preceding the commencement of this Constitution in respect of the administration of the tribal areas specified in Part A of the table appended to paragraph 20 of the Sixth Schedule ; and

(*b*) the costs of such schemes of development as may be undertaken by that State with the approval of the Government of India for the purpose of raising the level of administration of the said areas to that of the administration of the rest of the areas of that State.

(2) Until provision is made by Parliament under clause (1) the powers conferred on Parliament under that clause shall be exercisable by the President by order and any order made by the President under this clause shall have effect subject to any provision so made by Parliament :

Provided that after a Finance Commission has been constituted no order shall be made under this clause by the President except after considering the recommendations of the Finance Commission.

**Taxes on professions, trades, callings and employments.**

276. (1) Notwithstanding anything in article 246, no law of the Legislature of a State relating to taxes for the benefit of the State or of a Municipality, district board, local board or other local authority therein in respect of professions, trades, callings or employments shall be invalid on the ground that it relates to a tax on income.

(2) The total amount payable in respect of any one person to the State or to any one municipality, district board, local board or other local authority in the State by way of

taxes on professions, trades, callings or employments shall not exceed two hundred and fifty rupees per annum :

Provided that if in the financial year immediately preceding the commencement of this Constitution there was in force in the case of any State or any such municipality, board or authority a tax on professions, trades, callings or employments the rate, or the maximum rate, of which exceeded two hundred and fifty rupees per annum, such tax may continue to be levied until provision to the contrary is made by Parliament by law, and any law so made by Parliament may be made either generally or in relation to any specified States, municipalities, boards or authorities.

(3) The power of the Legislature of a State to make laws as aforesaid with respect to taxes on professions, trades, callings and employments shall not be construde as limiting in any way the power of Parliament to make laws with respect to taxes on income accruing from or arising out of professions, trades, callings and employments.

**Savings.**

277. Any taxes, duties, cesses or fees which, immediately before the commencement of this Constitution, were being lawfully levied by the Government of any State or by any municipality or other local authority or body for the purposes of the State, municipality, district or other local area may, notwithstanding that those taxes, duties, cesses or fees are mentioned in the Union List, continue to be levied and to be applied to the same purposes until provision to the contrary is made by Parliament by law.

**Agreement with States in Part B of the First Schedule with regard to certain financial matters.**

278. (1) Notwithstanding anything in this Constitution, the Government of India may, subject to the provisions of clause (2), enter into an agreement with the Government of a State specified in Part B of the First Schedule with respect to—

(*a*) the levy and collection of any tax or duty leviable by the Government of India in such State and for the distribution of the proceeds thereof otherwise than in accordance with the provisions of this Chapter ;

(*b*) the grant of any financial assistance by the Government of India to such State in consequence of the loss of any revenue which that State used to drive from any tax or duty leviable under this Constitution by the Government of India or from any other sources ;

(*c*) the contribution by such State in respect of any payment made by the Government of India under clause (1) of article 291 ;

and, when an agreement is so entered into, the provisions of this Chapter shall in relation to such State have effect subject to the terms of such agreement.

(2) An agreement entered into under clause (1) shall continue in force for a period not exceeding ten years from the commencement of this Constitution:

Provided that the President may at any time after the expiration of five years from such commencement terminate or modify any such agreement if after consideration of the report of the Finance Commission he thinks it necessary to do so.

Calculation of "net proceeds," etc.

279. (1) In the foregoing provisions of this Chapter, "net proceeds" means in relation to any tax or duty the proceeds thereof reduced by the cost of collection, and for the purposes of those provisions the net proceeds of any tax or duty, or of any part of any tax or duty, in or attributable to any area shall be ascertained and certified by the Comptroller and Auditor-General of India, whose certificate shall be final.

(2) Subject as aforesaid, and to any other express provision of this Chapter, a law made by Parliament or an order of the President may, in any case where under this Part the proceeds of any duty or tax are, or may be, assigned to any State, provide for the manner in which the proceeds are to be calculated, for the time from or at which and the manner in which any payments are to be made, for the making of adjustments between one financial year and another, and for any other incidental or ancillary matters.

Finance Commission.

280. (1) The President shall, within two years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such earlier time as the President considers necessary, by order constitute a Finance Commission which shall consist of a Chairman and four other members to be appointed by the President.

(2) Parliament may by law determine the qualifications which shall be requisite for appointment as members of the Commission and the manner in which they shall be selected.

(3) It shall be the duty of the Commission to make recommendations to the President as to—

(*a*) the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them under this Chapter and the allocation between the States of the respective shares of such proceeds;

(*b*) the principles which should govern the grants-in-aid of the revenue of the States out of the Consolidated Fund of India;

(*c*) the continuance or modification of the terms of any agreement entered into by the Government of India with the Government of any State specified in Part B of the First Schedule under clause (1) of article 278 or under article 306; and

(*d*) any other matter referred to the Commission by the President in the interests of sound finance.

(4) The Commission shall determine their procedure and shall have such powers in the performance of their functions as Parliament may by law confer on them.

**Recommendations of the Finance Commission.**

281. The President shall cause every recommendation made by the Finance Commission under the provisions of this Constitution together with an explanatory memorandum as to the action taken thereon to be laid before each House of Parliament.

*Miscellaneous Financial Provisions.*

**Expenditure defrayable by the Union or a State out of its revenues.**

282. The Union or a State may make any grants for any public purpose, notwithstanding that the purpose is not one with respect to which Parliament or the Legislature of the State as the case may be, may make laws.

**Custody, etc., of Consolidated Funds, Contingency Funds and moneys credited to the public accounts.**

283. (1) The custody of the Consolidated Fund of India and the Contingency Fund of India, the payment of moneys into such Funds, the withdrawal of moneys therefrom; the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of India, their payment into the public account of India and the withdrawal of moneys from such account and all other matters connected with or ancillary to matters aforesaid shall be regulated by law made by Parliament, and, until provision in that behalf is so made, shall be regulated by rules made by the President.

(2) The custody of the Consolidated Fund of a State and the Contingency Fund of a State, the payment of moneys into such Funds, the withdrawal of moneys therefrom, the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of the State, their payment into the public account of the State and the withdrawal of moneys from such account and all other

matters connected with or ancillary to matters aforesaid shall be regulated by law made by the Legislature of the State and until provision in that behalf is so made, shall be regulated by rules made by the Governor or Rajpramukh of the State.

Custody of suitors' deposits and other moneys received by public servants and courts.

284. All moneys received by or deposited with—

(*a*) any officer employed in connection with the affairs of the Union or of a State in his capacity as such, other than revenues or public moneys raised or received by the Government of India or the Government of the State, as the case may be, or

(*b*) any court within the territory of India to the credit of any cause, matter, account or persons,

shall be paid into the public account of India or the public account of the State, as the case may be.

Exemption of property of the Union from State taxation.

285. (1) The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempt from all taxes imposed by a State or by any authority within a State.

(2) Nothing in clause (1) shall, until Parliament by law otherwise provides, prevent any authority within a State from levying any tax on any property of the Union to which such property was immediately before the commencement of this Constitution liable or treated as liable, so long as that tax continues to be levied in that State.

Restrictions as to imposition of tax on the sale or purchase of goods.

286. (1) No law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place—

(*a*) outside the State; or

(*b*) in the course of the import of the goods into, or export of the goods out of, the territory of India.

*Explanation.*—For the purposes of sub-clause (*a*), a sale or purchase shall be deemed to have taken place in the State in which the goods have actually been delivered as a direct result of such sale or purchase for the purpose of consumption in that State, notwithstanding the fact that under the general law relating to sale of goods the property in the goods has by reason of such sale or purchase passed in another State.

(2) Except in so far as Parliament may by law otherwise provide, no law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of any goods where such sale or purchase takes place in the course of inter-State trade or commerce:

Provided that the President may by order direct that any tax on the sale or purchase of goods which was being lawfully levied by the Government of any State immediately before the commencement of this Constitution shall notwithstanding that the imposition of such tax is contrary to the provisions of this clause, continue to be levied until the thirty-first day of March 1951.

(3) No law made by the Legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any such goods as have been declared by Parliament by law to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent.

Exemption from taxes on electricity.

287. Save in so far as Parliament may by law otherwise provide, no law of a State shall impose, or authorise the imposition of, a tax on the consumption or sale of electricity (whether produced by a Government or other persons) which is—

(*a*) consumed by the Government of India, or sold to the Government of India for consumption by that Government; or

(*b*) consumed in the construction, maintenance or operation of any railway by the Government of India or a railway company operating that railway, or sold to that Government or any such railway company for consumption in the construction, maintenance or operation of any railway,

and any such law imposing, or authorising the imposition of a tax on the sale of electricity shall secure that the price of electricity sold to the Government of India for consumption by that Government, or to any such railway company as aforesaid for consumption in the construction, maintenance or operation of any railway, shall be less by the amount of the tax than the price charged to other consumers of a substantial quantity of electricity.

Exemption from taxation by States in respect of water or electricity in certain cases.

288. (1) Save in so far as the President may by order otherwise provide, no law of a State in force immediately before the commencement of this Constitution shall impose, or authorise the imposition of, a tax in respect of any water or electricity stored, generated, consumed, distributed or sold by any authority established by any existing law or any law made by Parliament for regulating or developing any inter-State river or river-valley.

*Explanation.*—The expression "law of a State in force" in this clause shall include a law of a State passed or made before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.

(2) The Legislature of a State may by law impose, or authorise the imposition of, any such tax as is mentioned in clause (1), but no such law shall have any effect unless it has, after having been reserved for the consideration of the President, received his assent; and if any such law provides for the fixation of the rates and other incidents of such tax by means of rules or orders to be made under the law by any authority, the law shall provide for the previous consent of the President being obtained to the making of any such rule or order.

Exemption of property and income of a State from Union taxation.

289. (1) The property and income of a State shall be exempt from Union taxation.

(2) Nothing in clause (1) shall prevent the Union from imposing, or authorising the imposition of, any tax to such extent, if any, as Parliament may by law provide in respect of a trade or business of any kind carried on by, or on behalf of, the Government of a State, or any operations connected therewith, or any property used or occupied for the purposes of such trade or business or any income accruing or arising in connection therewith.

(3) Nothing in clause (2) shall apply to any trade or business, or to any class of trade or business, which Parliament may by law declare to be incidental to the ordinary functions of Government.

Adjustment in respect of certain expenses and pensions.

290. Where under the provisions of this Constitution the expenses of any court or Commission, or the pension payable to or in respect of a person who has served before the commencement of this Constitution under the Crown in India or after such commencement in connection with the affairs of the Union or of a State, are charged on the Consolidated Fund of India or the Consolidated Fund of a State, then, if—

(*a*) in the case of a charge on the Consolidated Fund of India, the court or Commission serves any of the separate needs of a State, or the person has served wholly or in part in connection with the affairs of a State;

(*b*) in the case of a charge on the Consolidated Fund of a State, the court or Commission serves any of the separate needs of the Union or another State, or the person has served wholly or in part in connection with the affairs of the Union or another State,

there shall be charged on and paid out the Consolidated Fund of the State or, as the case may be, the Consolidated Fund of India or the Consolidated Fund of the other State, such contribution in respect of the expenses or pension as may be agreed, or as may in default of agreement be determined by an arbitrator to be appointed by the Chief Justice of India.

**Privy purse sums of rulers.**

291. (1) Where under any covenant or agreement entered into by the Ruler of any Indian State before the commencement of this Constitution, the payment of any sums, free of tax, has been guaranteed or assured by the Government of the Dominion of India to any Ruler of such State as privy purse—

(*a*) such sums shall be charged on, and paid out of the Consolidated Fund of India; and

(*b*) the sums so paid to any Ruler shall be exempt from all taxes on income.

(2) Where the territories of any such Indian State as aforesaid are comprised within a State specified in Part A or Part B of the First Schedule, there shall be charged on, and paid out of the Consolidated Fund of that State such contribution, if any, in respect of the payments made by the Government of India under clause (1) and for such period as may, subject to any agreement entered into in that behalf under clause (1) of article 278, be determined by order of the President.

## CHAPTER II.—BORROWING.

**Borrowing by the Government of India.**

292. The executive power of the Union extends to borrowing upon the security of the Consolidated Fund of India within such limits, if any, as may from time to time be fixed by Parliament by law and to the giving of guarantees within such limits, if any, as may be so fixed.

**Borrowing by States.**

293. (1) Subject to the provisions of this article, the executive power of a State extends to borrowing within the territory of India upon the security of the Consolidated Fund of the State within such limits, if any, as may from time to time be fixed by the Legislature of such State by law and to the giving of guarantees within such limits, if any, as may be so fixed.

(2) The Government of India may, subject to such conditions as may be laid down by or under any law made by Parliament, make loans to any State or, so long as any limits fixed under article 292 are not exceeded, give guarantees in respect of loans raised by any State, and any sums required for the purpose of making such loans shall be charged on the Consolidated Fund of India.

(3) A State may not without the consent of the Government of India raise any loan if there is still outstanding any part of a loan which has been made to the State by the Government of India or by its predecessor Government, or in respect of which a guarantee has been given by the Government of India or by its predecessor Government.

(4) A consent under clause (3) may be granted subject to such conditions, if any, as the Government of India may think fit to impose.

## CHAPTER III.—PROPERTY, CONTRACTS, RIGHTS, LIABILITIES, OBLIGATIONS AND SUITS.

Succession to property, assets, rights, liabilities and obligations in certain cases.

294. As the commencement of this Constitution—

(*a*) all property and assets which immediately before such commencement were vested in His Majesty for the purposes of the Government of the Dominion of India and all property and assets which immediately before such commencement were vested in His Majesty for the purposes of the Government of each Governor's Province shall vest respectively in the Union and the corresponding State, and

(*b*) all rights, liabilities and obligations of the Government of the Dominion of India and of the Government of each Governor's Province, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations respectively of the Government of India and the Government of each corresponding State,

subject to any adjustment made or to be made by reason of the creation before the commencement of this Constitution of the Dominion of Pakistan or of the Provinces of West Bengal, East Bengal, West Punjab and East Punjab.

Succession to property, assets, rights, liabilities and obligations in other cases.

295. (1) As from the commencement of this Constitution—

(*a*) all property and assets which immediately before such commencement were vested in any Indian State corresponding to a State specified in Part B of the First Schedule shall vest in the Union, if the purposes for which such property and assets were held immediately before such

commencement will thereafter be purposes of the Union relating to any of the matters enumerated in the Union List, and

(*b*) all rights, liabilities and obligations of the Government of any Indian State corresponding to a State specified in Part B of the First Schedule, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations of the Government of India, if the purposes for which such rights were acquired or liabilities or obligations were incurred before such commencement will thereafter be purposes of the Government of India relating to any of the matters enumerated in the Union List,

subject to any agreement entered into in that behalf by the Government of India with the Government of that State.

(2) Subject as aforesaid, the Government of each State specified in Part B of the First Schedule shall, as from the commencement of this Constitution, be the successor of the Government of the corresponding Indian State as regards all property and assets and all rights, liabilities and obligations, whether arising out of any contract or otherwise, other than those referred to in clause (1).

**Property accruing by escheat or lapse or as *bona vacantia*.**

296. Subject as hereinafter provided, any property in the territory of India which, if this Constitution had not come into operation, would have accrued to His Majesty or, as the case may be, to the Ruler of an Indian State by escheat or lapse, or as *bona vacantia* for want of a rightful owner, shall, if it is property situate in a State, vest in such State, and shall, in any other case, vest in the Union :

Provided that any property which at the date when it would have so accrued to His Majesty or to the Ruler of an Indian State was in the possession or under the control of the Government of India or the Government of a State shall according as the purposes for which it was then used or held were purposes of the Union or of a State, vest in the Union or in that State.

*Explanation.*—In this article, the expressions "Ruler" and "Indian State" have the same meanings as in article 363.

**Things of value lying within territorial waters to vest in the Union.**

297. All lands, minerals and other things of value underlying the ocean within the territorial waters of India shall vest in the Union and be held for the purposes of the Union.

Power to acquire property.

298. (1) The executive power of the Union and of each State shall extend, subject to any law made by the appropriate Legislature, to the grant, sale, disposition or mortgage of any property held for the purposes of the Union or of such State, as the case may be, and to the purchase or acquisition of property for those purposes respectively, and to the making of contracts.

(2) All property acquired for the purposes of the Union or of a State shall vest in the Union or in such State, as the case may be.

Contracts.

299. (1) All contracts made in the exercise of the executive power of the Union or of a State shall be expressed to be made by the President, or by the Governor or the Rajpramukh of the State, as the case may be, and all such contracts and all assurances of property made in the exercise of that power shall be executed on behalf of the President or the Governor or the Rajpramukh by such persons and in such manner as he may direct or authorise.

(2) Neither the President nor the Governor nor the Rajpramukh shall be personally liable in respect of any contract or assurance made or executed for the purposes of this Constitution, or for the purposes of any enactment relating to the Government of India heretofore in force, nor shall any person making or executing any such contract or assurance on behalf of any of them be personally liable in respect thereof.

Suits and proceedings.

300. (1) The Government of India may sue or be sued by the name of the Union of India and the Government of a State may sue or be sued by the name of the State and may, subject to any provisions which may be made by Act of Parliament or of the Legislature of such State enacted by virtue of powers conferred by this Constitution, sue or be sued in relation to their respective affairs in the like cases as the Dominion of India and the corresponding Provinces or the corresponding Indian States might have sued or been sued if this Constitution had not been enacted.

(2) If at the commencement of this Constitution—

(*a*) any legal proceedings are pending to which the Dominion of India is a party, the Union of India shall be deemed to be substituted for the Dominion in those proceedings; and

(*b*) any legal proceedings are pending to which a Province or an Indian State is a party, the corresponding State shall be deemed to be substituted for the Province or the Indian State in those proceedings.

## PART XIII.

## TRADE, COMMERCE AND INTERCOURSE WITHIN THE TERRITORY OF INDIA.

301. Subject to the other provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free.

Freedom of trade, commerce and intercourse.

302. Parliament may by law impose such restrictions on the freedom of trade, commerce or intercourse between one State and another or within any part of the territory of India as may be required in the public interest.

Power of Parliament to impose restrictions on trade, commerce and intercourse.

303. (1) Notwithstanding anything in article 302, neither Parliament nor the Legislature of a State shall have power to make any law giving, or authorising the giving of, any preference to one State over another, or making, or authorising the making of, any discrimination between one State and another, by virtue of any entry relating to trade and commerce in any of the Lists in the Seventh Schedule.

(2) Nothing in clause (i) shall prevent Parliament from making any law giving, or authorising the giving of, any preference or making, or authorising the making of, any discrimination if it is declared by such law that it is necessary to do so for the purpose of dealing with a situation arising from scarcity of goods in any part of the territory of India.

Restrictions on the legislative powers of the Union and of the States with regard to trade and commerce.

304. Notwithstanding anything in article 301 or article 303, the Legislature of a State may by law—

(*a*) impose on goods imported from other States any tax to which similar goods manufactured or produced in that State are subject, so, however, as not to discriminate between goods so imported and goods so manufactured or produced; and

(*b*) impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in the public interest:

Provided that no Bill or amendment for the purposes of clause (*b*) shall be introduced or moved in the Legislature of a State without the previous sanction of the President.

Restrictions on trade, commerce and intercourse among States.

305. Nothing in articles 301 and 303 shall affect the provisions of any existing law except in so far as the President may by order otherwise provide.

Effect of articles 301 and 303 on existing laws.

Power of certain States in Part B of the First Schedule to impose restrictions on trade and commerce.

306. Notwithstanding anything in the foregoing provisions of this Part or in any other provisions of this Constitution, any State specified in Part B of the First Schedule which before the commencement of this Constitution was levying any tax or duty on the import of goods into the State from other States or on the export of goods from the State to other States may, if an agreement in that behalf has been entered into between the Government of India and the Government of that State, continue to levy and collect such tax or duty subject to the terms of such agreement and for such period not exceeding ten years from the commencement of this Constitution as may be specified in the agreement:

Provided that the President may at any time after the expiration of five years from such commencement terminate or modify any such agreement if after consideration of the report of the Finance Commission constituted under article 280, he thinks it necessary to do so.

Appointment of authority for carrying out the purposes of articles 301 to 304.

307. Parliament may by law appoint such authority as it considers appropriate for carrying out the purposes of articles 301, 302, 303 and 304, and confer on the authority so appointed such powers and such duties as it thinks necessary.

## PART XIV.

## SERVICES UNDER THE UNION AND THE STATES.

### CHAPTER I—SERVICES.

Interpretation.

308. In this Part, unless the context otherwise requires, the expression "State" means a State specified in Part A or Part B of the First Schedule.

Recruitment and conditions of service of persons serving the Union or a State.

309. Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or of any State:

Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor or Rajpramukh of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment, and the conditions of service of persons appointed, to such services and posts until provision in that behalf

is made by or under an Act of the appropriate Legislature under this article, and any rules so made shall have effect subject to the provisions of any such Act.

Tenure of office of persons serving the Union or a State.

310. (1) Except as expressly provided by this constitution, every person who is a member of a defence service or of a civil service of the Union or of an all-India service or holds any post connected with defence or any civil post under the Union holds office during the pleasure of the President, and every person who is a member of a civil service of a State or holds any civil post under a State holds office during the pleasure of the Governor or, as the case may be, the Rajpramukh of the State.

(2) Notwithstanding that a person holding a civil post under the Union or a State holds office during the pleasure of the President, or, as the case may be, of the Governor or Rajpramukh of the State, any contract under which a person, not being a member of a defence service or of an all-India service or of a civil service of the Union or a State, is appointed under this Constitution to hold such a post may, if the President or the Governor or the Rajpramukh, as the case may be, deems it necessary in order to secure the services of a person having special qualifications, provide for the payment to him of compensation, if before the expiration of an agreed period that post is abolished or he is, for reasons not connected with any misconduct on his part, required to vacate that post.

Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State.

311. (1) No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.

(2) No such person as aforesaid shall be dismissed or removed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him :

Provided that this clause shall not apply—

(*a*) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge ;

(*b*) where an authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to give to that person an opportunity of showing cause ; or

(*c*) Where the President or Governor or Rajpramukh, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to give to that person such an opportunity.

(3) If any question arises whether it is reasonably practicable to give to any person an opportunity of showing cause under clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank, as the case may be, shall be final.

All India services.

312. (1) Notwithstanding anything in Part XI, if the Council of States, has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest so to do, Parliament may by law provide for the creation of one or more all-India services common to the Union and the States and, subject to the other provisions of this Chapter, regulate the recruitment, and the conditions of service of persons appointed, to any such service.

(2) The services now at the commencement of this Constitution as the Indian Administrative Service and the Indian Police Service shall be deemed to be services created by Parliament under this article.

Transitional provisions.

313. Until other provision is made in this behalf under this Constitution, all the laws in force immediately before the commencement of this Constitution, and applicable to any public service or any post which continues to exist after the commencement of this Constitution, as an All-India service or as service or post under the Union or a State shall continue in force so far as consistent with the provisions of this Constitution.

Provisions for protection of existing offices of certain services.

314. Except as otherwise expressly provided by this Constitution, every person who having been appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India continues on and after the commencement of this Constitution to serve under the Government of India or of a State shall be entitled to receive from the Government of India and the Government of State, which he is from time to time serving, the same conditions of service as respects remuneration, leave and pension, and the same rights as respects disciplinary matters or rights as similar thereto as changed circumstances may permit as that person was entitled to immediately before such commencement.

## CHAPTER II—PUBLIC SERVICE COMMISSIONS.

Public Service Commissions for the Union and for the States.

315. (1) Subject to the provisions of this article, there shall be a Pubilc Service Commission for the Union and a Public Service Commission for each State.

(2) Two or more States may agree that there shall be one Public Service Commission for that group of States, and if a resolution to that effect is passed by the House or, where there are two Houses, by each House of the Legislature of each of those States, Parliament may by law provide for the appointment of a Joint State Public Service Commission (referred to in this Chapter as Joint Commission) to serve the needs of those States.

(3) Any such law as aforesaid may contain such incidental and consequential provisions as may be necessary or desirable for giving effect to the purposes of the law.

(4) The Public Service Commission for the Union, if requested so to do by the Governor or Rajpramukh of a State, may, with the approval of the President, agree to serve all or any of the needs of the State.

(5) References in this Constitution to the Union Public Service Commission or a State Public Service Commission shall, unless the context otherwise requires, be construed as references to the Commission serving the needs of the Union or, as the case may be, the State as respects the particular matter in question.

Appointment and term of office of members.

316. (1) The Chairman and other members of a Public Service Commission shall be appointed, in the case of the Union Commission or a Joint Commission, by the President, and in the case of a State Commission, by the Governor or Rajpramukh of the State:

Provided that as nearly as may be one-half of the members of every Public Service Commission shall be persons who at the dates of their respective appointments have held office for at least ten years either under the Government of India or under the Government of a State, and in computing the said period of ten years any period before the commencement of this Constitution during which a person has held office under the Crown in India or under the Government of an Indian State shall be included.

(2) A member of a Public Service Commission shall hold office for a term of six years from the date on which he enters upon his office or until he attains, in the case of the Union Commission, the age of sixty-five years, and in the case of a State Commission or a Joint Commission, the age of sixty years, whichever is earlier:

Provided that—

(*a*) a member of a Public Service Commission may, by writing under his hand addressed, in the case of the Union Commission or a Joint Commission, to the President, and in the case of a State Commission, to the Governor or Rajpramukh of the State, resign his office;

(*b*) a member of a Public Service Commission may be removed from his office in the manner provided in clause (1) or clause (3) of article 317.

(3) A person who holds office as a member of a Public Service Commission shall, on the expiration of his term of office, be ineligible for re-appointment to that office.

Removal and suspension of a member of a Public Service Commission.

317. (1) Subject to the provisions of clause (3), the Chairman or any other member of a Public Service Commission shall only be removed from his office by order of the President on the ground of misbehaviour after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf under article 145, reported that the Chairman or such other member, as the case may be, ought on any such ground to be removed.

(2) The President, in the case of the Union Commission or a Joint Commission, and the Governor or Rajpramukh, in the case of a State Commission, may suspend from office the Chairman or any other member of the Commission in respect of whom a reference has been made to the Supreme Court under clause (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything in clause (1), the President may by order remove from office the Chairman or any other member of a Public Service Commission if the Chairman or such other member, as the case may be,—

(*a*) is adjudged an insolvent; or

(*b*) engages during his term of office in any paid employment outside the duties of his office; or

(*c*) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body.

(4) If the Chairman or any other member of a Public Service Commission is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or the Government of a State or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of clause (1), be deemed to be guilty of misbehaviour.

318. In the case of the Union Commission or a Joint Commission, the President and, in the case of a State Commission, the Governor or Rajpramukh of the State may by regulations—

Power to make regulations as to conditions of service of members and staff of the Commission.

(*a*) determine the number of members of the Commission and their conditions of service; and

(*b*) make provision with respect to the number of members of the staff of the Commission and their conditions of service:

Provided that the conditions of service of a member of a Public Service Commission shall not be varied to his disadvantage after his appointment.

319. On ceasing to hold office—

Prohibition as to the holding of offices by members of Commission on ceasing to be such members.

(*a*) the Chairman of the Union Public Service Commission shall be ineligible for further employment either under the Government of India or under the Government of a State;

(*b*) the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of any other State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State;

(*c*) a member other than the Chairman of the Union Public Service Commission shall be eligible for appointment as the Chairman of the Union Public Service Commission or as the Chairman of a State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State;

(*d*) a member other than the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of that or any other State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State.

320. (1) It shall be the duty of the Union and the State Public Service Commissions to conduct examinations for appointments to the services of the Union and the services of the State respectively.

Functions of Public Service Commissions.

(2) It shall also be the duty of the Union Public Service Commission, if requested by any two or more States so to do, to assist those States in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required,

(3) The Union Public Service Commission or the State Public Service Commission, as the case may be, shall be consulted—

(*a*) on all matters relating to methods of recruitment to civil services and for civil posts;

(*b*) on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers;

(*c*) on all disciplinary matters affecting a person serving under the Government of India or the Government of a State in a civil capacity, including memorials or petitions relating to such matters;

(*d*) on any claim by or in respect of a person who is serving or has served under the Government of India or the Government of a State or under the Crown in India or under the Government of an Indian State, in a civil capacity, that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the Consolidated Fund of India, or, as the case may be, out of the Consolidated Fund of the State:

(*e*) on any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India or the Government of a State or under the Crown in India or under the Government of an Indian State, in a civil capacity, and any question as to the amount of any such award,

and it shall be the duty of a Public Service Commission to advise on any matter so referred to them and on any other matter which the President, or, as the case may be, the Governor or Rajpramukh of the State, may refer to them:

Provided that the President as respects the all-India services and also as respects other services and posts in connection with the affairs of the Union, and the Governor or Rajpramukh, as the case may be, as respects other services and posts in connection with the affairs of a State, may make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted.

(4) Nothing in clause (3) shall require a Public Service Commission to be consulted as respects the manner in which any provision referred to in clause (4) of article 16 may be made or as respects the manner in which effect may be given to the provisions of article 335.

(5) All regulations made under the proviso to clause (3) by the President or the Governor or Rajpramukh of a State shall be laid for not less than fourteen days before each House of Parliament or the House or each House of the Legislature of the State, as the case may be, as soon as possible after they are made, and shall be subject to such modifications, whether by way of repeal or amendment, as both Houses of Parliament or the House or both Houses of the Legislature of the State may make during the session in which they are so laid.

Power to extend functions of Public Service Commissions.

321. An Act made by Parliament or, as the case may be, the Legislature of a State may provide for the exercise of additional functions by the Union Public Service Commission or the State Public Service Commission as respects the services of the Union or the State and also as respects the services of any local authority or other body corporate constituted by law or of any public institution.

Expenses of Public Service Commissions.

322. The expenses of the Union or a State Public Service Commission, including any salaries, allowances and pensions payable to or in respect of the members or staff of the Commission, shall be charged on the Consolidated Fund of India or, as the case may be, the Consolidated Fund of the State.

Reports of Public Service Commissions.

323. (1) It shall be the duty of the Union Commission to present annually to the President a report as to the work done by the Commission and on receipt of such report the President shall cause a copy thereof together with a memorandum explaining, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before each House of Parliament.

(2) It shall be the duty of a State Commission to present annually to the Governor or Rajpramukh of the State a report as to the work done by the Commission, and it shall be the duty of a Joint Commission to present annually to the Governor or Rajpramukh of each of the States the needs of which are served by the Joint Commission a report as to the work done by the Commission in relation to that State, and in either case the Governor or Rajpramukh, as the case may be, shall, on receipt of such report, cause a copy thereof together with a memorandum explaining, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before the Legislature of the State.

## PART XV.

## ELECTIONS.

Superintendence, direction and control of elections to be vested in an Election Commission.

324. (1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution, including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to Parliament and to the Legislatures of States shall be vested in a Commission (referred to in this Constitution as the Election Commission).

(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President.

(3) When any other Election Commissioner is so appointed the Chief Election Commissioner shall act as the Chairman of the Election Commission.

(4) Before each general election to the House of the People and to the Legislative Assembly of each State, and before the first general election and thereafter before each biennial election to the Legislative Council of each State having such Council, the President may also appoint after consultation with the Election Commission such Regional Commissioners as he may consider necessary to assist the Election Commission in the performance of the functions conferred on the Commission by clause (1).

(5) Subject to the provisions of any law made by Parliament, the conditions of service and tenure of office of the Election Commissioners and the Regional Commissioners shall be such as the President may by rule determine:

Provided that the Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court and the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment:

Provided further that any other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner.

(6) The President, or the Governor or Rajpramukh of a State, shall, when so requested by the Election Commission make available to the Election Commission or to a

Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission by clause (1).

No person to be ineligible for inclusion in, or to claim to be included in a special electoral roll on grounds of religion, race, caste or sex.

325. There shall be one general electoral roll for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State and no person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them.

Elections to the House of the People and to the Legislative Assemblies to States to be on the basis of adult suffrage.

326. The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage; that is to say, every person who is a citizen of India and who is not less than twenty-one years of age on such date as may be fixed in that behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter at any such election.

Power of Parliament to make provision with respect to elections to Legislatures.

327. Subject to the provisions of this Constitution, Parliament may from time to time by law make provision with respect to all matters relating to, or in connection with, elections to either House of Parliament or to the House or either House of the Legislature of a State including the preparation of electoral rolls, the delimitation of constituencies and all other matters necessary for securing the due constitution of such House or Houses.

Power of Legislature of a State to make provision with respect to elections to such Legislature.

328. Subject to the provisions of this Constitution and in so far as provision in that behalf is not made by Parliament, the Legislature of a State may from time to time by law make provision with respect to all matters relating to, or in connection with, the elections to the House or either House of the Legislature of the State including the preparation of electoral rolls and all other matters necessary for securing the due constitution of such House or Houses.

Bar to interference by courts in electoral matters.

329. Notwithstanding anything in this Constitution—

(*a*) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 327 or article 328, shall not be called in question in any court;

(*b*) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature.

## PART XVI.

## SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES.

Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People.

330. (1) Seats shall be reserved in the House of the People for—

(*a*) the Scheduled Castes;

(*b*) the Scheduled Tribes except the Scheduled Tribes in the tribal areas of Assam; and

(*c*) the Scheduled Tribes in the autonomous districts of Assam.

(2) The number of seats reserved in any State for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State in the House of the People as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State.

Representation of the Anglo-Indian community in the House of the People.

331. Notwithstanding anything in article 81, the President may, if he is of opinion that the Anglo-Indian community is not adequately represented in the House of the People, nominate not more than two members of that community to the House of the People.

Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.

332. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, except the Scheduled Tribes in the tribal areas of Assam, in the Legislative Assembly of every State specified in Part A or Part B of the First Schedule.

(2) Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam.

(3) The number of seats reserved for the Scheduled Castes or the Scheduled Tribes in the Legislative Assembly of any State under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes in the

State or of the Scheduled Tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State.

(4) The number of seats reserved for an autonomous district in the Legislative Assembly of the State of Assam shall bear to the total number of seats in that Assembly a proportion not less than the population of the district bears to the total population of the State.

(5) The constituencies for the seats reserved for any autonomous district of Assam shall not comprise any area outside that district except in the case of the constituency comprising the cantonment and municipality of Shillong.

(6) No person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district except from the constituency comprising the cantonment and municipality of Shillong.

Representation of the Anglo-Indian community in the Legislative Assemblies of the States.

333. Notwithstanding anything in article 170, the Governor or Rajpramukh of a State may, if he is of opinion that the Anglo-Indian community needs representation in the Legislative Assembly of the State and is not adequately represented therein, nominate such number of members of the community to the Assembly as he considers appropriate.

Reservation of seats and special representation to cease after ten years.

334. Notwithstanding anything in the foregoing provisions of this Part, the provisions of this Constitution relating to—

(*a*) the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People and in the Legislative Assemblies of the States; and

(*b*) the representation of the Anglo-Indian community in the House of the People and in the Legislative Assemblies of the States by nomination,

shall cease to have effect on the expiration of a period of ten years from the commencement of this Constitution:

Provided that nothing in this article shall affect any representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the then existing House or Assembly, as the case may be.

Claims of Scheduled Castes and Scheduled Tribes to services and posts.

335. The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State.

*Part XVI.—Special Provisions relating to certain Classes.—Arts.* 336-338.

Special provision for Anglo-Indian community in certain services.

336. (1) During the first two years after the commencement of this Constitution, appointments of members of the Anglo-Indian community to posts in the railway, customs, postal and telegraph services of the Union shall be made on the same basis as immediately before the fifteenth day of August 1947.

During every succeeding period of two years, the number of posts reserved for the members of the said community in the said services shall, as nearly as possible, be less by ten per cent than the number so reserved during the immediately preceding period of two years:

Provided that at the end of ten years from the commencement of this Constitution all such reservations shall cease.

(2) Nothing in clause (1) shall bar the appointment of members of the Anglo-Indian community to posts other than, or in addition to, those reserved for the community under that clause if such members are found qualified for appointment on merit as compared with the members of other communities.

Special provision with respect to educational grants for the benefit of Anglo-Indian community.

337. During the first three financial years after the commencement of this Constitution, the same grants, if any, shall be made by the Union and by each State specified in Part A or Part B of the First Schedule for the benefit of the Anglo-Indian community in respect of education as were made in the financial year ending on the thirty-first day of March, 1948.

During every succeeding period of three years the grants may be less by ten per cent than those for the immediately preceding period of three years:

Provided that at the end of ten years from the commencement of this Constitution such grants, to the extent to which they are a special concession to the Anglo-Indian community, shall cease:

Provided further that no educational institution shall be entitled to receive any grant under this article unless at least forty per cent of the annual admissions therein are made available to members of communities other than the Anglo-Indian community.

Special Officer for scheduled castes Scheduled Tribes, etc.

338. (1) There shall be a Special Officer for the Scheduled Castes and Scheduled Tribes to be appointed by the President.

(2) It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under this Constitution and report to the President upon the working of those

safeguards at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament.

(3) In this article, references to the Scheduled Castes and Scheduled Tribes shall be construed as including references to such other backward classes as the President may, on receipt of the report of a Commission appointed under clause (1) of article 340, by order specify and also to the Anglo-Indian community.

Control of the Union over the administration of Scheduled Areas and the welfare of Scheduled Tribes.

339. (1) The President may at any time and shall, at the expiration of ten years from the commencement of this Constitution by order appoint a Commission to report on the administration of the Scheduled Areas and the welfare of the Scheduled Tribes in the States specified in Part A and Part B of the First Schedule.

The order may define the composition, powers and procedure of the Commission and may contain such incidental or ancillary provisions as the President may consider necessary or desirable.

(2) The executive power of the Union shall extend to the giving of directions to any such State as to the drawing up and execution of schemes specified in the direction to be essential for the welfare of the Scheduled Tribes in the State.

Appointment of a Commission to investigate the conditions of backward classes.

340. (1) The President may by order appoint a Commission consisting of such persons as he thinks fit to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the Union or any State to remove such difficulties and to improve their condition and as to the grants that should be made for the purpose by the Union or any State and the conditions subject to which such grants should be made, and the order appointing such Commission shall define the procedure to be followed by the Commission.

(2) A Commission so appointed shall investigate the matters referred to them and present to the President a report setting out the facts as found by them and making such recommendations as they think proper.

(3) The President shall cause a copy of the report so presented together with a memorandum explaining the action taken thereon to be laid before each House of Parliament.

Scheduled Castes.

341. (1) The President may, after consultation with the Governor or Rajpramukh of a State, by public notification, specify the castes, races or tribes or parts of or groups within

castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State.

(2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

Scheduled Tribes.

342. (1) The President may, after consultation with the Governor or Rajpramukh of a State, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State.

(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

## PART XVII.

## OFFICIAL LANGUAGE.

### CHAPTER I.—LANGUAGE OF THE UNION.

Official language of the Union.

343. (1) The official language of the Union shall be Hindi in Devanagari script.

The form of numerals to be used for the official purposes of the Union shall be the international form of Indian numerals.

(2) Notwithstanding anything in clause (1), for a period of fifteen years from the commencement of this Constitution, the English language shall continue to be used for all the official purposes of the Union for which it was being used immediately before such commencement:

Provided that the President may, during the said period, by order authorise the use of the Hindi language in addition to the English language and of the Devanagari form of numerals in addition to the international form of Indian numerals for any of the official purposes of the Union.

(3) Notwithstanding anything in this article, Parliament may by law provide for the use, after the said period of fifteen years, of—

(*a*) the English language, or

(*b*) the Devanagari form of numerals,

for such purposes as may be specified in the law.

Commission and Committee of Parliament on official language.

344. (1) The President shall, at the expiration of five years from the commencement of this Constitution and thereafter at the expiration of ten years from such commencement, by order constitute a Commission which shall consist of a Chairman and such other members representing the different languages specified in the Eighth Schedule as the President may appoint, and the order shall define the procedure to be followed by the Commission.

(2) It shall be the duty of the Commission to make recommendations to the President as to—

(*a*) the progressive use of the Hindi language for the official purposes of the Union;

(*b*) restrictions on the use of the English language for all or any of the official purposes of the Union;

(*c*) the language to be used for all or any of the purposes mentioned in article 348;

(*d*) the form of numerals to be used for any one or more specified purposes of the Union;

(*e*) any other matter referred to the Commission by the President as regards the official language of the Union and the language for communication between the Union and a State or between one State and another and their use.

(3) In making their recommendations under clause (2), the Commission shall have due regard to the industrial, cultural and scientific advancement of India, and the just claims and the interests of persons belonging to the non-Hindi speaking areas in regard to the public services.

(4) There shall be constituted a Committee consisting of thirty members, of whom twenty shall be members of the House of the People and ten shall be members of the Council of States to be elected respectively by the members of the House of the People and the members of the Council of States in accordance with the system of proportional representation by means of the single transferable vote.

(5) It shall be the duty of the Committee to examine the recommendations of the Commission constituted under clause (1) and to report to the President their opinion thereon.

(6) Notwithstanding anything in article 343, the President may, after consideration of the report referred to in clause (5), issue directions in accordance with the whole or any part of that report.

## CHAPTER II.—REGIONAL LANGUAGES.

Official language or languages of a State.

345. Subject to the provisions of articles 346 and 347, the Legislature of a State may by law adopt any one or more of the languages in use in the State or Hindi as the language or languages to be used for all or any of the official purposes of that State:

Provided that, until the Legislature of the State otherwise provides by law, the English language shall continue to be used for those official purposes within the State for which it was being used immediately before the commencement of this Constitution.

Official language for communication between one State and another or between a State and the Union.

346. The language for the time being authorized for use in the Union for official purposes shall be the official language for communication between one State and another State and between a State and the Union:

Provided that if two or more States agree that the Hindi language should be the official language for communication between such States, that language may be used for such communication.

Special provision relating to language spoken by a section of the population of a State.

347. On a demand being made in that behalf, the President may, if he is satisfied that a substantial proportion of the population of a State desire the use of any language spoken by them to be recognised by that State, direct that such language shall also be officially recognised throughout that State or any part thereof for such purpose as he may specify.

## CHAPTER III.—LANGUAGE OF THE SUPREME COURT, HIGH COURTS, ETC.

Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.

348. (1) Notwithstanding anything in the foregoing provisions of this Part, until Parliament by law otherwise provides—

(*a*) all proceedings in the Supreme Court and in every High Court,

(*b*) the authoritative texts—

(*i*) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the Legislature of a State,

(*ii*) of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor or Rajpramukh of a State, and

(*iii*) of all orders, rules, regulations and bye-laws issued under this Constitution or under any law made by Parliament or the Legislature of a State,

shall be in the English language.

(2) Notwithstanding anything in sub-clause (*a*) of clause (1), the Governor or Rajpramukh of a State may, with the previous consent of the President, authorise the use of the Hindi language, or any other language used for any official purpose of the State, in proceedings in the High Court having its principal seat in that State:

Provided that nothing in this clause shall apply to any judgment, decree or order passed or made by such High Court.

(3) Notwithstanding anything in sub-clause (*b*) of clause (1), where the Legislature of a State has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislature of the State or in Ordinances promulgated by the Governor or Rajpramukh of the State or in any order, rule, regulation or bye-law referred to in paragraph (iii) of that sub-clause, a translation of the same in the English language published under the authority of the Governor or Rajpramukh of the State in the Official Gazette of that State shall be deemed to be the authoritative text thereof in the English language under this article.

Special procedure for enactment of certain laws relating to language.

349. During the period of fifteen years from the commencement of this Constitution, no Bill or amendment making provision for the language to be used for any of the purposes mentioned in clause (1) of article 348 shall be introduced or moved in either House of Parliament without the previous sanction of the President, and the President shall not give his sanction to the introduction of any such Bill or the moving of any such amendment except after he has taken into consideration the recommendations of the Commission constituted under clause (1) of article 344 and the report of the Committee constituted under clause (4) of that article.

## CHAPTER IV.—SPECIAL DIRECTIVES.

Language to be used in representations for redress of grievances.

350. Every person shall be entitled to submit a representation for the redress of any grievance to any officer or authority of the Union or a State in any of the languages used in the Union or in the State, as the case may be.

Directive for development of the Hindi Language.

351. It shall be the duty of the Union to promote the spread of the Hindi language, to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India and to secure its enrichment by assimilating without interfering with its genius, the forms, style and expressions used in Hindustani and in the other languages of India specified in the Eighth Schedule, and by drawing, wherever necessary or desirable, for its vocabulary, primarily on Sanskrit and secondarily on other languages.

## PART XVIII.

## EMERGENCY PROVISIONS.

Proclamation of Emergency.

352. (1) If the President is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance, he may, by Proclamation, make a declaration to that effect.

(2) A Proclamation issued under clause (1)—

(*a*) may be revoked by a subsequent Proclamation;

(*b*) shall be laid before each House of Parliament;

(*c*) shall cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament:

Provided that if any such Proclamation is issued at a time when the House of the People has been dissolved or the dissolution of the House of the People takes place during the period of two months referred to in sub-clause (*c*), and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the People.

(3) A Proclamation of Emergency declaring that the security of India or of any part of the territory thereof is threatened by war or by external aggression or by internal disturbance may be made before the actual occurrence of war or of any such aggression or disturbance if the President is satisfied that there is imminent danger thereof.

Effect of Proclamation of Emergency.

353. While a Proclamation of Emergency is in operation, then—

(*a*) notwithstanding anything in this Constitution, the executive power of the Union shall extend to the giving of directions to any State as to the manner in which the executive power thereof is to be exercised;

(*b*) the power of Parliament to make laws with respect to any matter shall include power to make laws conferring powers and imposing duties, or authorising the conferring of powers and the imposition of duties, upon the Union or officers and authorities of the Union as respects that matter, notwithstanding that it is one which is not enumerated in the Union List.

**Application of provisions relating to distribution of revenues while a Proclamation of Emergency is in operation.**

354. (1) The President may, while a Proclamation of Emergency is in operation, by order direct that all or any of the provisions of articles 268 to 279 shall, for such period, not extending in any case beyond the expiration of the financial year in which such Proclamation ceases to operate, as may be specified in the order, have effect subject to such exceptions or modifications as he thinks fit.

(2) Every order made under clause (1) shall, as soon as may be after it is made, be laid before each House of Parliament.

**Duty of the Union to protect States against external aggression and internal disturbance.**

355. It shall be the duty of the Union to protect every State against external aggression and internal disturbance and to ensure that the government of every State is carried on in accordance with the provisions of this Constitution.

**Provisions in case of failure of constitutional machinery in States.**

356. (1) If the President, on receipt of a report from the Governor or Rajpramukh of a State or otherwise, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution, the President may by Proclamation—

(*a*) assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or Rajpramukh, as the case may be, or any body or authority in the State other than the Legislature of the State;

(*b*) declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament;

(*c*) make such incidental and consequential provisions as appear to the President to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to any body or authority in the State:

Provided that nothing in this clause shall authorise the President to assume to himself any of the powers vested in or exercisable by a High Court, or to suspend in whole or in part the operation of any provision of this Constitution relating to High Courts.

(2) Any such Proclamation may be revoked or varied by a subsequent Proclamation.

(3) Every Proclamation under this article shall be laid before each House of Parliament and shall except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament :

Provided that if any such Proclamation (not being a Proclamation revoking a previous Proclamation) is issued at a time when the House of the People is dissolved or the dissolution of the House of the People takes place during the period of two months referred to in this clause, and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the People.

(4) A Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of six months from the date of the passing of the second of the resolutions approving the Proclamation under clause (3) :

Provided that if and so often as a resolution approving the continuance in force of such a Proclamation is passed by both Houses of Parliament, the Proclamation shall, unless revoked, continue in force for a further period of six months from the date on which under this clause it would otherwise have ceased to operate, but no such Proclamation shall in any case remain in force for more than three years :

Provided further that if the dissolution of the House of the People takes place during any such period of six months and a resolution approving the continuance in force of such Proclamation has been passed by the Council of States, but no resolution with respect to the continuance in force of such Proclamation has been passed by the House of the People during the said period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the continuance in force of the Proclamation has been also passed by the House of the People.

**Exercise of legislative powers under Proclamation issued under article 356**

357. (1) Where by a Proclamation issued under clause (1) of article 356, it has been declared that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament, it shall be competent—

(*a*) for Parliament to confer on the President the power of the Legislature of the State to make laws, and to authorise the President to delegate, subject to such conditions as he may think fit to impose, the power so conferred to any other authority to be specified by him in that behalf;

(*b*) for Parliament, or for the President or other authority in whom such power to make laws is vested under sub-clause (*a*), to make laws conferring powers and imposing duties, or authorising the conferring of powers and the imposition of duties, upon the Union or officers and authorities thereof;

(*c*) for the President to authorise when the House of the People is not in session expenditure from the Consolidated Fund of the State pending the sanction of such expenditure by Parliament.

(2) Any law made in exercise of the power of the Legislature of the State by Parliament or the President or other authority referred to in sub-clause (*a*) of clause (1) which Parliament or the President or such other authority would not, but for the issue of a Proclamation under article 356, have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of one year after the Proclamation has ceased to operate except as respects things done or omitted to be done before the expiration of the said period, unless the provisions which shall so cease to have effect are sooner repealed or re-enacted with or without modification by Act of the appropriate Legislature.

**Suspension of provisions of article 19 during emergencies.**

358. While a Proclamation of Emergency is in operation, nothing in article 19 shall restrict the power of the State as defined in Part III to make any law or to take any executive action which the State would but for the provisions contained in that Part be competent to make or to take, but any law so made shall, to the extent of the incompetency, cease to have effect as soon as the Proclamation ceases to operate, except as respects things done or omitted to be done before the law so ceases to have effect.

**Suspension of the enforcement of the rights conferred by Part III during emergencies.**

359. (1) Where a Proclamation of Emergency is in operation, the President may by order declare that the right to move any court for the enforcement of such of the rights conferred by Part III as may be mentioned in the order and all proceedings pending in any court for the enforcement of the rights so mentioned shall remain suspended for the period during which the Proclamation is in force or for such shorter period as may be specified in the order.

(2) An order made as aforesaid may extend to the whole or any part of the territory of India.

(3) Every order made under clause (1) shall, as soon as may be after it is made, be laid before each House of Parliament.

Provisions as to financial emergency.

360. (1) If the President is satisfied that a situation has arisen whereby the financial stability or credit of India or of any part of the territory thereof is threatened, he may by a Proclamation make a declaration to that effect.

(2) The provisions of clause (2) of article 352 shall apply in relation to a Proclamation issued under this article as they apply in relation to a Proclamation of Emergency issued under article 352.

(3) During the period any such Proclamation as is mentioned in clause (1) is in operation, the executive authority of the Union shall extend to the giving of directions to any State to observe such canons of financial propriety as may be specified in the directions, and to the giving of such other directions as the President may deem necessary and adequate for the purpose.

(4) Notwithstanding anything in this Constitution—

(*a*) any such direction may include—

(*i*) a provision requiring the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of a State;

(*ii*) a provision requiring all Money Bills or other Bills to which the provisions of article 207 apply to be reserved for the consideration of the President after they are passed by the Legislature of the State;

(*b*) it shall be competent for the President during the period any Proclamation issued under this article is in operation to issue directions for the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of the Union including the Judges of the Supreme Court and the High Courts.

## PART XIX.

## MISCELLANEOUS.

Protection of President and Governors and Rajpramukhs.

361. (1) The President, or the Governor or Rajpramukh of a State, shall not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties:

Provided that the conduct of the President may be brought under review by any court, tribunal or body appointed or designated by either House of Parliament for the investigation of a charge under article 61 :

Provided further that nothing in this clause shall be construed as restricting the right of any person to bring appropriate proceedings against the Government of India or the Government of a State.

(2) No criminal proceedings whatsoever shall be instituted or continued against the President, or the Governor or Rajpramukh of a State, in any court during his term of office.

(3) No process for the arrest or imprisonment of the President, or the Governor or Rajpramukh of a State, shall issue from any court during his term of office.

(4) No civil proceedings in which relief is claimed against the President, or the Governor or Rajpramukh of a State, shall be instituted during his term of office in any court in respect of any act done or purporting to be done by him in his personal capacity, whether before or after he entered upon his office as President, or as Governor or Rajpramukh of such State, until the expiration of two months next after notice in writing has been delivered to the President or the Governor or the Rajpramukh, as the case may be, or left at his office stating the nature of the proceedings, the cause of action therefor, the name, description and place of residence of the party by whom such proceedings are to be instituted and the relief which he claims.

**Rights and privileges of Rulers of Indian States.**

362. In the exercise of the power of Parliament or of the Legislature of a State to make laws or in the exercise of the executive power of the Union or of a State, due regard shall be had to the guarantee or assurance given under any such covenant or agreement as is referred to in clause (1) of article 291 with respect to the personal rights, privileges and dignities of the Ruler of an Indian State.

**Bar to interference by courts in disputes arising out of certain treaties, agreements, etc.**

363. (1) Notwithstanding anything in this Constitution but subject to the provisions of article 143, neither the Supreme Court nor any other court shall have jurisdiction in any dispute arising out of any provision of a treaty, agreement, covenant, engagement, *sanad* or other similar instrument which was entered into or executed before the commencement of this Constitution by any Ruler of an Indian State and to which the Government of the Dominion of India or any of its predecessor Governments was a party and which has or has been continued in operation after such commencement, or in any dispute in respect of any right accruing under or any

liability or obligation arising out of any of the provisions of this Constitution relating to any such treaty, agreement, covenant, engagement, *sanad* or other similar instrument.

(2) In this article—

(*a*) "Indian State" means any territory recognized before the commencement of this Constitution by His Majesty or the Government of the Dominion of India as being such a State; and

(*b*) "Ruler" includes the Prince, Chief or other person recognized before such commencement by His Majesty or the Government of the Dominion of India as the Ruler of any Indian State.

**Special provisions as to major ports and aerodromes.**

364. (1) Notwithstanding anything in this Constitution, the President may by public notification direct that as from such date as may be specified in the notification—

(*a*) any law made by Parliament or by the Legislature of a State shall not apply to any major port or aerodrome or shall apply thereto subject to such exceptions or modifications as may be specified in the notification, or

(*b*) any existing law shall cease to have effect in any major port or aerodrome except as respects things done or omitted to be done before the said date, or shall in its application to such port or aerodrome have effect subject to such exceptions or modifications as may be specified in the notification.

(2) In this article—

(*a*) "major port" means a port declared to be a major port by or under any law made by Parliament or any existing law and includes all areas for the time being included within the limits of such port;

(*b*) "aerodrome" means aerodrome as defined for the purposes of the enactments relating to airways, aircraft and air navigation.

**Effect of failure to comply with, or to give effect to, directions given by the Union.**

365. Where any State has failed to comply with, or to give effect to, any directions given in the exercise of the executive power of the Union under any of the provisions of this Constitution, it shall be lawful for the President to hold that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution.

**Definitions.**

366. In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

(1) "agricultural income" means agricultural income as defined for the purposes of the enactments relating to Indian income-tax;

(2) "an Anglo-Indian" means a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is domiciled within the territory of India and is or was born within such territory of parents habitually resident therein and not established there for temporary purposes only;

(3) "article" means an article of this Constitution;

(4) "borrow" includes the raising of money by the grant of annuities, and "loan" shall be construed accordingly;

(5) "clause" means a clause of the article in which the expression occurs;

(6) "corporation tax" means any tax on income, so far as that tax is payable by companies and is a tax in the case of which the following conditions are fulfilled:—

(*a*) that it is not chargeable in respect of agricultural income;

(*b*) that no deduction in respect of the tax paid by companies is, by any enactments which may apply to the tax, authorized to be made from dividends payable by the companies to individuals;

(*c*) that no provision exists for taking the tax so paid into account in computing for the purposes of Indian income-tax the total income of individuals receiving such dividends, or in computing the Indian income-tax payable by, or refundable to such individuals;

(7) "corresponding Province", "corresponding Indian State" or "corresponding State" means in cases of doubt such Province, Indian State or State as may be determined by the President to be the corresponding Province, the corresponding Indian State or the corresponding State, as the case may be, for the particular purpose in question;

(8) "debt" includes any liability in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee, and "debt charges" shall be construed accordingly;

(9) "estate duty" means a duty to be assessed on or by reference to the principal value, ascertained in accordance with such rules as may be prescribed by or under laws made by Parliament or the Legislature of a State relating to the duty, of all property passing upon death or deemed, under the provisions of the said laws, so to pass;

(10) "existing law" means any law, Ordinance, order, bye-law, rule or regulation passed or made before the commencement of this Constitution by any Legislature, authority or person having power to make such a law, Ordinance, order, bye-law, rule or regulation;

(11) "Federal Court" means the Federal Court constituted under the Government of India Act, 1935;

(12) "goods" includes all materials, commodities and articles;

(13) "guarantee" includes any obligation undertaken before the commencement of this Constitution to make payments in the event of the profits of an undertaking falling short of a sepecified amount;

(14) "High Court" means any Court which is deemed for the purposes of this Constitution to be a High Court for any State and includes—

(*a*) any Court in the territory of India constituted or reconstitued under this Constitution as a High Court, and

(*b*) any other Court in the territory of India which may be declared by Parliament by law to be a High Court for all or any of the purposes of this Constitution;

(15) "Indian State" means any territory which the Government of the Dominion of India recognized as such a State;

(16) "Part" means a Part of this Constitution;

(17) "pension" means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of any pension, and includes retired pay so payable, a gratuity so payable and any sum or sums so payable by way of the return, with or without interest thereon or any other addition thereto, of subscriptions to a provident fund;

(18) "Proclamation of Emergency" means a Proclamation issued under clause (1) of article 352;

(19) "public notification" means a notification in the *Gazette of India*, or, as the case may be, the Official Gazette of a State;

(20) "railway" does not include—

(*a*) a tramway wholly within a municipal area, or

(*b*) any other line of communication wholly situated in one State and declared by Parliament by law not to be a railway;

(21) "Rajpramukh" means—

(*a*) in relation to the State of Hyderabad, the person who for the time being recognized by the President as the Nizam of Hyderabad;

(*b*) in relation to the State of Jammu and Kashmir or the State of Mysore, the person who for the time being is recognized by the President as the Maharaja of that State; and

(*c*) in relation to any other State specified in Part B of the First Schedule, the person who for the time being is recognized by the President as the Rajpramukh of that State,

and includes in relation to any of the said States any person for the time being recognized by the President as competent to exercise the powers of the Rajpramukh in relation to that State;

(22) "Ruler" in relation to an Indian State means the Prince, Chief or other person by whom any such covenant or agreement as is referred to in clause (1) of article 291 was entered into and who for the time being is recognized by the President as the Ruler of the State, and includes any person who for the time being is recognised by the President as the successor of such Ruler;

(23) "Schedule" means a Schedule to this Constitution;

(24) "Scheduled Castes" means such castes, races or tribes or parts or groups within such castes, races or tribes as are deemed under article 341 to be Scheduled Castes for the purposes of this Constitution;

(25) "Scheduled Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of this Constitution;

(26) "securities" includes stock;

(27) "sub-clause" means a sub-clause of the clause in which the expression occurs;

(28) "taxation" includes the imposition of any tax or impost, whether general or local or special, and "tax" shall be construed accordingly;

(29) "tax on income" includes a tax in the nature of an excess profits tax;

(30) "Uparajpramukh" in relation to any State specified in Part B of the First Schedule means the person who for the time being is recognized by the President as the Uparajpramukh of that State.

Interpretation.

367. (1) Unless the context otherwise requires, the General Clauses Act, 1897, shall, subject to any adaptations and modifications that may be made therein under article 372, apply for the interpretation of this Constitution as it applies for the interpretation of an Act of the Legislature of the Dominion of India.

(2) Any reference in this Constitution to Acts or laws of, or made by, Parliament, or to Acts or laws of, or made by the Legislature of a State specified in Part A or Part B of the First Schedule, shall be construed as including a reference to an Ordinance made by the President or, to an Ordinance made by a Governor or Rajpramukh, as the case may be.

(3) For the purposes of this Constitution "foreign State" means any State other than India:

Provided that subject to the provisions of any law made by Parliament, the President may by order declare any State not to be a foreign State for such purposes as may be specified in the order.

## PART XX.

## AMENDMENT TO THE CONSTITUTION.

Procedure for amendment of the Constitution.

368. An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President for his assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill:

Provided that if such amendment seeks to make any change in —

(*a*) article 54, article 55, article 73, article 162 or article 241, or

(*b*) Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI, or

(*c*) any of the Lists in the Seventh Schedule, or

(*d*) the representation of States in Parliament, or

(*e*) the provisions of this article,

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States specified in Parts A and B of the First Schedule by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.

## PART XXI.

## TEMPORARY AND TRANSITIONAL PROVISIONS.

Temporary power to Parliament to make laws with respect to certain matters in the State List as if they were matters in the Concurrent List.

369. Notwithstanding anything in this Constitution, Parliament shall, during a period of five years from the commencement of this Constitution, have power to make laws with respect to the following matters as if they were enumerated in the Concurrent List, namely :—

(*a*) trade and commerce within a State in, and the production, supply and distribution of, cotton and woollen textiles, raw cotton (including ginned cotton and unginned cotton or *kapas*), cotton seed, paper (including newsprint), foodstuffs (including edible oil seeds and oil), cattle fodder (including oil-cakes and other concentrates), coal (including coke and derivatives of coal), iron, steel and mica ;

(*b*) offences against laws with respect to any of the matters mentioned in clause (*a*), jurisdiction and powers of all courts except the Supreme Court with respect to any of those matters, and fees in respect of any of those matters but not including fees taken in any court ;

but any law made by Parliament, which Parliament would not but for the provisions of this article have been competent to make, shall, to the extent of the incompetency, cease to have effect on the expiration of the said period, except as respects things done or omitted to be done before the expiration thereof.

Temporary provisions with respect to the State of Jammu and Kashmir.

370. (1) Notwithstanding anything in this Constitution,—

(*a*) the provisions of article 238 shall not apply in relation to the State of Jammu and Kashmir ;

(*b*) the power of Parliament to make laws for the said State shall be limited to—

(*i*) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State ; and

(*ii*) such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify.

*Explanation.*—For the purposes of this article, the Government of the State means the person for the time being recognised by the President as the Maharaja of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office under the Maharaja's Proclamation dated the fifth day of March 1948 ;

(*c*) the provisions of article 1 and of this article shall apply in relation to that State;

(*d*) such of the other provisions of this Constitution shall apply in relation to that State subject to such exceptions and modifications as the President may by order specify:

Provided that no such order which relates to the matters specified in the Instrument of Accession of the State referred to in paragraph (*i*) of sub-clause (*b*) shall be issued except in consultation with the Government of the State:

Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government.

(2) If the concurrence of the Government of the State referred to in paragraph (*ii*) of sub-clause (*b*) of clause (1) or in the second proviso to sub-clause (*d*) of that clause be given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take thereon.

(3) Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify:

Provided that the recommendation of the Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues such a notification.

**Temporary provisions with respect to States in Part B of the First Schedule.**

371. Notwithstanding anything in this Constitution, during a period of ten years from the commencement thereof, or during such longer or shorter period as Parliament may by law provide in respect of any State, the Government of every State specified in Part B of the First Schedule shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given by, the President:

Provided that the President may by order direct that the provisions of this article shall not apply to any State specified in the order.

**Continuance in force of existing laws and their adaptation.**

372. (1) Notwithstanding the repeal by this Constitution of the enactments referred to in article 395 but subject to the other provisions of this Constitution, all the law in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority.

(2) For the purpose of bringing the provisions of any law in force in the territory of India into accord with the provisions of this Constitution, the President may by order make such adaptations and modifications of such law, whether by way of repeal or amendment, as may be necessary of expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law.

(3) Nothing in clause (2) shall be deemed—

(*a*) to empower the President to make any adaptation or modification of any law after the expiration of two years from the commencement of this Constitution; or

(*b*) to prevent any competent Legislature or other competent authority from repealing or amending any law adapted or modified by the President under the said clause.

*Explanation I.*—The expression "law in force" in this article shall include a law passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.

*Explanation II.*—Any law passed or made by a Legislature or other competent authority in the territory of India which immediately before the commencement of this Constitution had extra-territorial effect as well as effect in the territory of India shall, subject to any such adaptations and modifications as aforesaid, continue to have such extra-territorial effect.

*Explanation III.*—Nothing in this article shall be construde as continuing any temporary law in force beyond the date fixed for its expiration or the date on which it would have expired if this Constitution had not come into force.

*Explanation IV.*—An Ordinance promulgated by the Governor of a Province under section 88 of the Government of India Act, 1935, and in force immediately before the commencement of this Constitution shall, unless withdrawn by the Governor of the corresponding State earlier, cease to operate at the expiration of six weeks from the first meeting after such commencement of the Legislative Assembly of that State functioning under clause (1) of article 382, and nothing in this article shall be construed as continuing any such Ordinance in force beyond the said period.

Power of President to make order in respect of persons under preventive detention in certain cases.

373. Until provision is made by Parliament under clause (7) of article 22, or until the expiration of one year from the commencement of this Constitution, whichever is earlier, the said article shall have effect as if for any reference to Parliament in clauses (4) and (7) thereof there were substituted a reference to the President and for any reference to any law made by Parliament in those clauses there were substituted a reference to an order made by the President.

Provisions as to Judges of the Federal Court and proceedings pending in the Federal Court or before His Majesty in Council.

374. (1) The Judges of the Federal Court holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the Judges of the Supreme Court and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave of absence and pension as are provided for under article 125 in respect of the Judges of the Supreme Court.

(2) All suits, appeals and proceedings, civil or criminal, pending in the Federal Court at the commencement of this Constitution shall stand removed to the Supreme Court, and the Supreme Court shall have jurisdiction to hear and determine the same, and the judgments and orders of the Federal Court delivered or made before the commencement of this Constitution shall have the same force and effect as if they had been delivered or made by the Supreme Court.

(3) Nothing in this Constitution shall operate to invalidate the exercise of jurisdiction by His Majesty in Council to dispose of appeals and petitions from, or in respect of, any judgment, decree or order of any court within the territory of India in so far as the exercise of such jurisdiction is authorised by law, and any order of His Majesty in Council made on any such appeal or petition after the commencement of this Constitution shall for all purposes have effect as if it were an order or decree made by the Supreme Court in the exercise of the jurisdiction conferred on such Court by this Constitution.

(4) On and from the commencement of this Constitution the jurisdiction of the authority functioning as the Privy Council in a State specified in Part B of the First Schedule to entertain and dispose of appeals and petitions from or in respect of any judgment, decree or order of any court within that State shall cease, and all appeals and other proceedings pending before the said authority at such commencement shall be transferred to, and disposed of by, the Supreme Court.

(5) Further provision may be made by Parliament by law to give effect to the provisions of this article.

*Part XXI.—Temporary and Transitional Provisions.—Arts. 375-378.*

375. All courts of civil, criminal and revenue jurisdiction, all authorities and all officers, judicial, executive and ministerial, throughout the territory of India, shall continue to exercise their respective functions subject to the provisions of this Constitution.

Courts, authorities and officers to continue to function subject to the provisions of the Constitution.

376. (1) Notwithstanding anything in clause (2) of article 217, the Judges of a High Court in any Province holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become, on such commencement, the Judges of the High Court in the corresponding State, and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave of absence and pension as are provided for under article 221 in respect of the Judges of such High Court.

Provisions as to Judges of High Courts.

(2) The Judges of a High Court in any Indian State corresponding to any State specified in Part B of the First Schedule holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become, on such commencement, the Judges of the High Court in the State so specified and shall, notwithstanding anything in clauses (1) and (2) of article 217 but, subject to the proviso to clause (1) of that article, continue to hold office until the expiration of such period as the President may by order determine.

(3) In this article the expression "Judge" does not include an acting Judge or an additional Judge.

377. The Auditor-General of India holding office immediately before the commencement of this Constitution shall, unless he has elected otherwise, become, on such commencement, the Comptroller and Auditor-General of India and shall thereupon be entitled to such salaries and to such rights in respect of leave of absence and pension as are provided for under clause (3) of article 148 in respect of the Comptroller and Auditor-General of India and be entitled to continue to hold office until the expiration of his term of office as determined under the provisions which were applicable to him immediately before such commencement.

Provisions as to Comptroller and Auditor-General of India.

378. (1) The members of the Public Service Commission for the Dominion of India holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become, on such commencement, the members of the Public Service Commission for the Union and shall, notwithstanding anything in clauses (1) and (2) of

Provisions as to Public Service Commissions.

article 316, but subject to the proviso to clause (2) of that article, continue to hold office until the expiration of their term of office as determined under the rules which were applicable immediately before such commencement to such members.

(2) The members of a Public Service Commission of a Province or of a Public Service Commission serving the needs of a group of Provinces holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become, on such commencement, the members of the Public Service Commission for the corresponding State or the members of the Joint State Public Service Commission serving the needs of the corresponding States, as the case may be, and shall, notwithstanding anything in clauses (1) and (2) of article 316, but subject to the proviso to clause (2) of that article, continue to hold office until the expiration of their term of office as determined under the rules which were applicable immediately before such commencement to such members.

**Provisions as to provisional Parliament and the Speaker and Deputy Speaker thereof.**

379. (1) Until both Houses of Parliament have been duly constituted and summoned to meet for the first session under the provisions of the Constitution, the body functioning as the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution shall be the provisional Parliament and shall exercise all the powers and perform all the duties conferred by the provisions of this Constitution on Parliament.

*Explanation.*—For the purposes of this clause, the Constituent Assembly of the Dominion of India includes—

(*i*) the members chosen to represent any State or other territory for which representation is provided under clause (2); and

(*ii*) the members chosen to fill casual vacancies in the said Assembly.

(2) The President may by rules provide for—

(*a*) the representation in the provisional Parliament functioning under clause (1) of any State or other territory which was not represented in the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution,

(*b*) the manner in which the representatives of such States or other territories in the provisional Parliament shall be chosen, and

(*c*) the qualifications to be possessed by such representatives.

(3) If a member of the Constituent Assembly of the Dominion of India was, on the sixth day of October 1949, or thereafter at any time before the commencement of this Constitution, a member of a House of the Legislature of a Governor's Province or of an Indian State corresponding to any State specified in Part B of the First Schedule or a Minister for any such State, then, as from the commencement of this Constitution the seat of such member in the Constituent Assembly shall, unless he has ceased to be a member of that Assembly earlier, become vacant and every such vacancy shall be deemed to be a casual vacancy.

(4) Notwithstanding that any such vacancy in the Constituent Assembly of the Dominion of India as is mentioned in clause (3) has not occurred under that clause, steps may be taken before the commencement of this Constitution for the filling of such vacancy, but any person chosen before such commencement to fill the vacancy shall not be entitled to take his seat in the said Assembly until after the vacancy has so occurred.

(5) Any person holding office immediately before the commencement of this Constitution as Speaker or Deputy Speaker of the Constituent Assembly when functioning as the Dominion Legislature under the Government of India Act, 1935, shall on such commencement be the Speaker or, as the case may be, the Deputy Speaker of the provisional Parliament functioning under clause (1).

**Provision as to President.**

380. (1) Such person as the Constituent Aseembly of the Dominion of India shall have elected in that behalf shall be the President of India until a President has been elected in accordance with the provisions contained in Chapter I of Part V and has entered upon his office.

(2) In the event of the occurrence of any vacancy in the office of the President so elected by the Constituent Assembly of the Dominion of India by reason of his death, resignation, or removal, or otherwise, it shall be filled by a person elected in that behalf by the provisional Parliament functioning under article 379, and until a person is so elected, the Chief Justice of India shall act as President.

**Council of Ministers of the President.**

381. Such persons as the President may appoint in that behalf shall become members of the Council of Ministers of the President under this Constitution, and, until appointments are so made, all persons holding office as Ministers for the Dominion of India immediately before the commencement of this Constitution shall on such commencement become, and shall continue to hold office as, members of the Council of Ministers of the President under this Constitution.

*Part XXI.—Temporary and Transitional Provisions.—Arts. 382-384.*

Provisions as to provisional Legislatures for States in Part A of the First Schedule.

382. (1) Until the House or Houses of the Legislature of each State specified in Part A of the First Schedule has or have been duly constituted and summoned to meet for the first session under the provisions of this Constitution, the House or Houses of the Legislature of the corresponding Province functioning immediately before the commencement of this Constitution shall exercise the powers and perform the duties conferred by the provisions of this Constitution on the House or Houses of the Legislature of such State.

(2) Notwithstanding anything in clause (1), where a general election to reconstitute the Legislative Assembly of a Province has been ordered before the commencement of this Constitution, the election may be completed after such commencement as if this Constitution had not come into operation, and the Assembly so reconstituted shall be deemed to be the Legislative Assembly of that Province for the purposes of that clause.

(3) Any person holding office immediately before the commencement of this Constitution as Speaker or Deputy Speaker of the Legislative Assembly or President or Deputy President of the Legislative Council of a Province shall on such commencement be the Speaker or Deputy Speaker of the Legislative Assembly or the Chairman or Deputy Chairman of the Legislative Council, as the case may be, of the corresponding State specified in Part A of the First Schedule while such Assembly or Council functions under clause (1) :

Provided that where a general election has been ordered for the reconstitution of the Legislative Assembly of a Province before the commencement of this Constitution and the first meeting of the Assembly as so reconstituted is held after such commencement, the provisions of this clause shall not apply and the Assembly as reconstituted shall elect two members of the Assembly to be respectively the Speaker and Deputy Speaker thereof.

Provision as to Governors of Provinces.

383. Any person holding office as Governor in any Province immediately before the commencement of this Constitution shall on such commencement be the Governor of the corresponding State specified in Part A of the First Schedule until a new Governor has been appointed in accordance with the provisions of Chapter II of Part VI and has entered upon his office.

Council of Ministers of Governors.

384. Such persons as the Governor of a State may appoint in that behalf shall become members of the Council of Ministers of the Governor under this Constitution, and, until appointments are so made, all persons holding office as Ministers for the corresponding Province immediately before the

commencement of this Constitution shall on such commencement become, and shall continue to hold office as, members of the Council of Ministers of the Governor of the State under this Constitution.

Provision as to provisional Legislatures in States in Part B of the First Schedule.

385. Until the House or Houses of the Legislature of a State specified in Part B of the First Schedule has or have been duly constituted and summoned to meet for the first session under the provisions of this Constitution, the body or authority functioning immediately before the commencement of this Constitution as the Legislature of the corresponding Indian State shall exercise the powers and perform the duties conferred by the provisions of this Constitution on the House or Houses of the Legislature of the State so specified.

Council of Ministers for States in Part B of the First Schedule.

386. Such persons as the Rajpramukh of a State specified in Part B of the First Schedule may appoint in that behalf shall become members of the Council of Ministers of such Rajpramukh under this Constitution, and, until appointments are so made, all persons holding office as Ministers for the corresponding Indian State immediately before the commencement of this Constitution shall on such commencement become, and shall continue to hold office as, members of the Council of Ministers of such Rajpramukh under this Constitution.

Special provision as to determination of population for the puposes of certain elections.

387. For the purposes of elections held under any of the provisions of this Constitution during a period of three years from the commencement of this Constitution, the population of India or of any part thereof may, notwithstanding anything in this Constitution, be determined in such manner as the President may by order direct, and different provisions may be made for different States and for different purposes by such order.

Provisions as to the filling of casual vacancies in the provisional Parliament and provisional Legislatures of the States.

388. (1) Casual vacancies in the seats of members of the provisional Parliament functioning under clause (1) of article 379, including vacancies referred to in clauses (3) and (4) of that article, shall be filled, and all matters in connection with the filling of such vacancies (including the decision of doubts and disputes arising out of, or in connection with, elections to fill such vacancies) shall be regulated—

(*a*) in accordance with such rules as may be made in that behalf by the President, and

(*b*) until rules are so made, in accordance with the rules relating to the filling of casual vacancies in the Constituent Assembly of the Dominion of India and matters connected therewith in force at the time of the filling of such vacancies are immediately before the commencement of this Constitution, as the case may be, subject to such exceptions

and modifications as may be made therein before such commencement by the President of that Assembly and thereafter by the President of India :

Provided that where any such seat as is mentioned in this clause was, immediately before it became vacant, held by a person belonging to the Schedule Castes or to the Muslim or the Sikh community and representing a Province or, as the case may be, a State specified in Part A of the First Schedule, the preson to fill such seat shall, unless the President of the Constituent Assembly or the President of India, as the case may be, considers it necessary or expedient to provide otherwise, be of the same community :

Provided further that at an election to fill any such vacancy in the seat of a member representing a Province or a State specified in Part A of the First Schedule, every member of the Legislative Assembly of that Province or of the corresponding State or of that State, as the case may be, shall be entitled to participate and vote.

*Explanation.*—For the purposes of this clause—

(*a*) all such castes, races or tribes or parts of or groups within castes, races or tribes as are specified in the Government of India (Scheduled Castes) Order, 1936, to be Scheduled Castes in relation to any Province shall be deemed to be Scheduled Castes in relation to that Province or the corresponding State until a notification has been issued by the President under clause (1) of article 341 specifying the Scheduled Castes in relation to that corresponding State ;

(*b*) all the Scheduled Castes in any Province or State shall be deemed to be a single community.

(2) Casual vacancies in the seats of members of a House of the Legislature of a State functioning under article 382 or article 385 shall be filled, and all matters in connection with the filling of such vacancies (including the decision of doubts and disputes arising out of, or in connection with, elections to fill such vacancies) shall be regulated in accordance with such provisions governing the filling of such vacancies and regulating such matters as were in force immediately before the commencement of this Constitution subject to such exceptions and modifications as the President may by order direct.

**Provision as to Bills pending in the Dominion Legislature and in the Legislatures of Provinces and Indian States.**

389. A Bill which immediately before the commencement of this Constitution was pending in the Legislature of the Dominion of India or in the Legislature of any Province or Indian State may, subject to any provision to the contrary which may be included in rules made by Parliament or the Legislature of the corresponding State under this Constitution, be continued in Parliament or the Legislature of the corresponding State, as the case may be, as if the proceedings taken with reference to the Bill in the Legislature of the

Dominion of India or in the Legislature of the Province or Indian State had been taken in Parliament or in the Legislature of the corresponding State.

Moneys received or raised or expenditure incurred between the commencement of the Constitution and the 31st day of March, 1950.

390. The provisions of this Constitution relating to the Consolidated Fund of India or the Consolidated Fund of any State and the appropriation of moneys out of either of such Funds shall not apply in relation to moneys received or raised or expenditure incurred by the Government of India or the Government of any State between the commencement of this Constitution and the thirty-first day of March, 1950, both days inclusive, and any expenditure incurred during that period shall be deemed to be duly authorised if the expenditure was specified in a schedule of authorised expenditure authenticated in accordance with the provisions of the Government of India Act, 1935, by the Governor-General of the Dominion of India or the Governor of the corresponding Province or is authorised by the Rajpramukh of the State in accordance with such rules as were applicable to the authorisation of expenditure from the revenues of the corresponding Indian State immediately before such commencement.

Power of the President to amend the First and Fourth Schedules in certain contingencies.

391. (1) If at any time between the passing of this Constitution and its commencement any action is taken under the provisions of the Government of India Act, 1935, which in the opinion of the President requires any amendment in the First Schedule and the Fourth Schedule, the President may, notwithstanding anything in this Constitution, by order, make such amendments in the said Schedules as may be necessary to give effect to the action so taken, and any such order may contain such supplemental, incidental and consequential provisions as the President may deem necessary.

(2) When the First Schedule or the Fourth Schedule is so amended, any reference to that Schedule in this Constitution shall be consrued as a reference to such Schedule as so amended.

Power of the President to remove difficulties.

392. (1) The President may, for the purpose of removing any difficulties, particularly in relation to the transition from the provisions of the Government of India Act, 1935, to the provisions of this Constitution, by order direct that this Constitution shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition, or omission, as he may deem to be necessary or expedient:

Provided that no such order shall be made after the first meeting of Parliament duly constituted under Chapter II of Part V.

(2) Every order made under clause (1) shall be laid before Parliament.

(3) The powers conferred on the President by this article, by article 324, by clause (3) of article 367 and by article 391 shall, before the commencement of this Constitution, be exercisable by the Governor-General of the Dominion of India.

## PART XXII.

## SHORT TITLE, COMMENCEMENT AND REPEALS.

Short title.

393. This constitution may be called the Constitution of India.

Commencement.

394. This article and articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380 388, 391, 392 and 393 shall come into force at once, and the remaining provisions of this Constitution shall come into force on the twenty-sixth day of January 1950, which day is referred to in this Constitution as the commencement of this Constitution.

Repeals.

395. The Indian Independence Act, 1947, and the Government of India Act, 1935, together with all enactments amending or supplementing the latter Act, but not including the Abolition of Privy Council Jurisdiction Act, 1949, are hereby repealed.

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## FIRST SCHEDULE.

(Articles 1, 4 and 391.)

**The States and the territories of India.**

### PART A.

| *Names of States.* | *Names of corresponding Provinces.* |
|---|---|
| 1 Assam. | Assam. |
| 2 Bihar. | Bihar. |
| 3 Bombay. | Bombay. |
| 4 Madhya Pradesh. | The Central Provinces and Berar. |
| 5 Madras. | Madras. |
| 6 Orissa. | Orissa. |
| 7 Punjab. | East Punjab. |
| 8 The United Provinces. | The United Provinces. |
| 9 West Bengal. | West Bengal. |

*First Schedule.*

TERRITORIES OF STATES.

The territory of the State of Assam shall comprise the territories which immediately before the commencement of this Constitution were comprised in the Province of Assam, the Khasi States and the Assam Tribal Areas.

The territory of the State of West Bengal shall comprise the territory which immediately before the commencement of this Constitution was comprised in the Province of West Bengal.

The territory of each of the other States in this Part shall comprise the territories which immediately before the commencement of this Constitution were comprised in the corresponding Province and the territories which, by virtue of an order made under section 290-A of the Government of India Act, 1935, were immediately before such commencement being administered as if they formed part of that Province.

## PART B.

NAMES OF STATES.

1 Hyderabad.
2 Jammu and Kashmir.
3 Madhya Bharat.
4 Mysore.
5 Patiala and East Punjab States Union.
6 Rajasthan.
7 Saurashtra.
8 Travancore-Cochin.
9 Vindhya Pradesh.

TERRITORIES OF STATES.

The territory of each of the States in this Part shall comprise the territory which immediately before the commencement of this Constitution was comprised in the corresponding Indian State, and—

(*a*) in the case of each of the States of Rajasthan and Saurashtra, shall also comprise the territories which immediately before such commencement were being administered by the Government of the corresponding Indian State, whether under the provisions of the Extra-Provincial Jurisdiction Act, 1947, or otherwise; and

(*b*) in the case of the State of Madhya Bharat, shall also comprise the territory which immediately before such commencement was comprised in the Chief Commissioner's Province of Panth Piploda.

## PART C.

NAMES OF STATES.

1 Ajmer.
2 Bhopal.
3 Bilaspur.
4 Cooch-Behar.
5 Coorg.
6 Delhi.
7 Himachal Pradesh.
8 Kutch.
9 Manipur.
10 Tripura.

TERRITORIES OF STATES.

The territory of each of the States of Ajmer, Coorg and Delhi shall comprise the territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioners' Provinces of Ajmer-Merwara, Coorg and Delhi, respectively.

The territory of each of the other States in this Part shall comprise the territories which, by virtue of an order made under section 290-A of the Government of India Act, 1935, were immediately before the commencement of this Constitution being administered as if they were a Chief Commissioner's Province of the same name.

## PART D.

The Andaman and Nicobar Islands.

# SECOND SCHEDULE.

[Articles 59 (3), 65 (3), 75 (6), 97, 125, 148 (3), 158 (3), 164 (5), 186 and 221.]

## PART A.

PROVISIONS AS TO THE PRESIDENT AND THE GOVERNORS OF STATES SPECIFIED IN PART A OF THE FIRST SCHEDULE.

1. There shall be paid to the President and to the Governors of the States specified in Part A of the First Schedule the following emoluments per mensem, that is to say:—

| | Rs. |
|---|---|
| The President | 10,000 |
| The Governor of a State | 5,500 |

2. There shall also be paid to the President and to the Governors of the States so specified such allowances as were payable respectively to the Governor-General of the Dominion of India and to the Governors of the corresponding Provinces immediately before the commencement of this Constitution.

3. The President and the Governors of such States throughout their respective terms of office shall be entitled to the same privileges to which the Governor-General and the Governors of the corresponding Provinces were respectively entitled immediately before the commencement of this Constitution.

4. While the Vice-President or any other person is discharging the functions of, or is acting as, President, or any person is discharging the functions of the Governor, he shall be entitled to the same emoluments, allowances and privileges as the President or the Governor whose functions he discharges or for whom he acts, as the case may be.

## PART B.

PROVISIONS AS TO THE MINISTERS FOR THE UNION AND FOR THE STATES IN PART A AND PART B OF THE FIRST SCHEDULE.

5. There shall be paid to the Prime Minister and to each of the other Ministers for the Union such salaries and allowances as were payable respectively to the Prime Minister and to each of the other Ministers for the Dominion of India immediately before the commencement of this Constitution.

6. There shall be paid to the Ministers for any State specified in Part A or Part B of the First Schedule such salaries and allowances as were payable to such Ministers for the corresponding Province or the corresponding Indian State, as the case may be, immediately before the commencement of this Constitution.

## PART C.

PROVISIONS AS TO THE SPEAKER AND THE DEPUTY SPEAKER OF THE HOUSE OF THE PEOPLE AND THE CHAIRMAN AND THE DEPUTY CHAIRMAN OF THE COUNCIL OF STATES AND THE SPEAKER AND THE DEPUTY SPEAKER OF THE LEGISLATIVE ASSEMBLY OF A STATE IN PART A OF THE FIRST SCHEDULE AND THE CHAIRMAN AND THE DEPUTY CHAIRMAN OF THE LEGISLATIVE COUNCIL OF ANY SUCH STATE.

7. There shall be paid to the Speaker of the House of the People and the Chairman of the Council of States such salaries and allowances as were payable to the Speaker of the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution, and there shall be paid to the Deputy Speaker of the House of the People and to the Deputy Chairman of the Council of States such salaries and allowances as were payable to the Deputy Speaker of the Constituent Assembly of the Dominion of India immediately before such commencement.

8. There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly of a State specified in Part A of the First Schedule and to the Chairman and the Deputy Chairman of the Legislative Council of such State such salaries and allowances as were payable respectively to the Speaker and the Deputy Speaker of the Legislative Assembly and the President and the Deputy President of the Legislative Council of the corresponding Province immediately before the commencement of this Constitution and, where the corresponding Province had no Legislative Council immediately before such commencement, there shall be paid to the Chairman and the Deputy Chairman of the Legislative Council of the State such salaries and allowances as the Governor of the State may determine.

## PART D.

### PROVISIONS AS TO THE JUDGES OF THE SUPREME COURT AND OF THE HIGH COURTS IN STATES IN PART A OF THE FIRST SCHEDULE.

9. (1) There shall be paid to the Judges of the Supreme Court, in respect of time spent on actual service, salary at the following rates per mensem, that is to say :—

| | |
|---|---|
| The Chief Justice .. .. .. | 5,000 rupees |
| Any other Judge .. .. .. | 4,000 rupees |

Provided that if a Judge of the Supreme Court at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or any of its predecessor Governments or under the Government of a State or any of its predecessor Governments, his salary in respect of service in the Supreme Court shall be reduced by the amount of that pension.

(2) Every Judge of the Supreme Court shall be entitled without payment of rent to the use of an official residence.

(3) Nothing in sub-paragraph (2) of this paragraph shall apply to a Judge who, immediately before the commencement of this Constitution,—

(*a*) was holding office as the Chief Justice of the Federal Court and has become on such commencement the Chief Justice of the Supreme Court under clause (i) of article 374, or

(*b*) was holding office as any other Judge of the Federal Court and has on such commencement become a Judge (other than the Chief Justice) of the Supreme Court under the said clause,

during the period he holds office as such Chief Justice or other Judge, and every Judge who so becomes the Chief Justice or other Judge of the Supreme Court shall, in respect of time spent on actual service as such Chief Justice or other Judge, as the case may be, be entitled to receive in addition to the salary specified in sub-paragraph (1) of this paragraph as special pay an amount equivalent to the difference between the salary so specified and the salary which he was drawing immediately before such commencement.

(4) Every Judge of the Supreme Court shall receive such reasonable allowances to reimburse him for expenses incurred in travelling on duty within the territory of India and shall be afforded such reasonable facilities in connexion with travelling as the President may from time to time prescribe.

(5) The rights in respect of leave of absence (including leave allowances) and pension of the Judges of the Supreme Court shall be governed by the provisions which, immediately before the commencement of this Constitution, were applicable to the Judges of the Federal Court.

10. (1) There shall be paid to the Judges of the High Court of each State specified in Part A of the First Schedule in respect of time spent on actual service, salary at the following rates per mensem, that is to say :—

| | |
|---|---|
| The Chief Justice .. .. | 4,000 rupees |
| Any other Judge .. .. | 3,500 rupees |

(2) Every person who immediately before the commencement of this Constitution—

(*a*) was holding office as the Chief Justice of a High Court in any Province and has on such commencement become the Chief Justice of the High Court in the corresponding State under clause (1) of article 376, or

(*b*) was holding office as any other Judge of a High Court in any Province and has on such commencement become a Judge (other than the Chief Justice) of the High Court in the corresponding State under the said clause,

shall, if he was immediately before such commencement drawing a salary at a rate higher than that specified in sub-paragraph (1) of this paragraph, be entitled to receive in respect of time spent on actual service as such Chief Justice or other Judge, as the case may be, in addition to the salary specified in the said sub-paragraph as special pay an amount equivalent to the difference between the salary so specified and the salary which he was drawing immediately before such commencement.

(3) Every Judge of a High Court shall receive such reasonable allowances to reimburse him for expenses incurred in travelling on duty within the territory of India and shall be afforded such reasonable facilities in connexion with travelling as the President may from time to time prescribe.

(4) The rights in respect of leave of absence (including leave allowances) and pension of the Judges of the High Court of any State shall be governed by the provisions which, immediately before the commencement of this Constitution, were applicable to the Judges of the High Court in the corresponding Province.

11. In this Part, unless the context otherwise requires,—

(*a*) the expression "Chief Justice" includes an acting Chief Justice and a "Judge" includes an *ad hoc* Judge;

(*b*) "actual service" includes—

(*i*) time spent by a Judge on duty as a Judge or in the performance of such other functions as he may at the request of the President undertake to discharge;

(*ii*) vacations, excluding any time during which the Judge is absent on leave; and

(*iii*) joining time on transfer from a High Court to the Supreme Court or from one High Court to another.

## PART E.

### PROVISIONS AS TO THE COMPTROLLER AND AUDITOR-GENERAL OF INDIA.

12. (1) There shall be paid to the Comptroller and Auditor-General of India a salary at the rate of four thousand rupees per mensem.

(2) The person who was holding office immediately before the commencement of this Constitution as Auditor-General of India and has become on such commencement the Comptroller and Auditor-General of India under article 377 shall in addition to the salary specified in sub-paragraph (1) of this paragraph be entitled to receive as special pay an amount equivalent to the difference between the salary so specified and the salary which he was drawing as Auditor-General of India immediately before such commencement.

(3) The rights in respect of leave of absence and pension and the other conditions of service of the Comptroller and Auditor-General of India shall be governed or shall continue to be governed, as the case may be, by the provisions which were applicable to the Auditor-General of India immediately before the commencement of this Constitution and all references in those provisions to the Governor-General shall be construed as references to the President.

## THIRD SCHEDULE.

[Articles 75 (4), 99, 124 (6), 148 (2), 164 (3), 188 and 219.]

### Forms of Oaths or Affirmations.

I

Form of oath of office for a Minister for the Union :—

"I, A.B., do $\frac{\text{swear in the name of God}}{\text{solemnly affirm}}$ that I will bear true faith and allegiance to the Constitution of India as by law established, that I will faithfully and conscientiously discharge my duties as a Minister for the Union and that I will do right to all manner of people in accordance with the Constitution and the law, without fear or favour, affection or illwill."

II

Form of oath of secrecy for a Minister for the Union :—

"I, A.B., do $\frac{\text{swear in the name of God}}{\text{solemnly affirm}}$ that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister for the Union except as may be required for the due discharge of my duties as such Minister."

III

Form of oath or affirmation to be made by a member of Parliament :—

"I, A.B., having been elected (or nominated) a member of the Council of States (or the House of the People) do swear in the name of God
$\frac{\text{swear in the name of God}}{\text{solemnly affirm}}$ that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter."

IV

Form of oath or affirmation to be made by the Judges of the Supreme Court and the Comptroller and Auditor-General of India :—

"I, A.B., having been appointed Chief Justice (or a Judge) of the Supreme Court of India (or Comptroller and Auditor-General of India) do $\frac{\text{swear in the name of God}}{\text{solemnly affirm}}$ that

I will bear true faith and allegiance to the Constitution of India as by law established, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or illwill and that I will uphold the Constitution and the laws."

V

Form of oath of office for a Minister for a State :—

"I, A.B., do ——— that I will bear
swear in the name of God / solemnly affirm

true faith and allegiance to the Constitution of India as by law established, that I will faithfully and conscientiously discharge my duties as a Minister for the State of ..... and that I will do right to all manner of people in accordance with the Constitution and the law without fear or favour, affection or illwill."

VI

Form of oath of secrecy for a Minister for a State :—

"I, A.B., do ——— that I will not
swear in the name of God / solemnly affirm

directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister for the State of.....except as may be required for the due discharge of my duties as such Minister."

VII

Form of oath or affirmation to be made by a member of the Legislature of a State :—

"I, A.B., having been elected (or nominated) a member of the Legislative Assembly (or Legislative Council), do swear in the name of God
——— that I will bear true faith and
solemnly affirm

allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter."

VIII

Form of oath or affirmation to be made by the Judges of a High Court :—

"I, A.B., having been appointed Chief Justice (or a Judge) of the High Court at (or of)..... do

swear in the name of God
——————————— that I will bear true faith and
solemnly affirm
allegiance to the Constitution of India as by law established, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or illwill and that I will uphold the Constitution and the laws."

## FOURTH SCHEDULE.

[Articles 4 (1), 80 (2) and 391.]

**Allocation of seats in the Council of States.**

To each State or group of States specified in the first column of the table of seats appended to this Schedule there shall be allotted the number of seats specified in the second column of the said table opposite to that State or group of States, as the case may be.

### TABLE OF SEATS.

THE COUNCIL OF STATES.

*Representatives of States specified in Part A of the First Schedule.*

| (1) *States.* | (2) *Total Seats.* |
|---|---|
| 1 Assam | 6 |
| 2 Bihar | 21 |
| 3 Bombay | 17 |
| 4 Madhya Pradesh | 12 |
| 5 Madras | 27 |
| 6 Orissa | 9 |
| 7 Punjab | 8 |
| 8 The United Provinces | 31 |
| 9 West Bengal | 14 |
| Total | 145 |

*Representatives of States specified in Part B of the First Schedule.*

| (1) *States.* | (2) *Total Seats.* |
|---|---|
| 1 Hyderabad | 11 |
| 2 Jammu and Kashmir | 4 |
| 3 Madhya Bharat | 6 |
| 4 Mysore | 6 |
| 5 Patiala and East Punjab States Union | 3 |
| 6 Rajasthan | 9 |
| 7 Saurashtra | 4 |
| 8 Travancore-Cochin | 6 |
| 9 Vindhya Pradesh | 4 |
| Total | 53 |

*Fourth Schedule.*

*Fifth Schedule.*

*Representatives of States specified in Part C of the First Schedule.*

| (1) States and Groups of States | (2) Total Seats. |
|---|---|
| 1 Ajmer<br>2 Coorg | 1 |
| 3 Bhopal | 1 |
| 4 Bilaspur<br>5 Himachal Pradesh | 1 |
| 6 Cooch-Behar | 1 |
| 7 Delhi | 1 |
| 8 Kutch | 1 |
| 9 Manipur<br>10 Tripura | 1 |
| Total | 7 |
| TOTAL OF ALL SEATS | 205 |

## FIFTH SCHEDULE.

[Article 244 (1).]

**Provisions as to the Administration and Control of Scheduled Areas and Scheduled Tribes.**

### PART A.

GENERAL.

1. *Interpretation.*—In this Schedule, unless the context otherwise requires, the expression "State" means a State specified in Part A or Part B of the First Schedule but does not include the State of Assam.

2. *Executive power of a State in Scheduled Areas.*—Subject to the provisions of this Schedule, the executive power of a State extends to the Scheduled Areas therein.

3. *Report by the Governor or Rajpramukh to the President regarding the administration of Scheduled Areas.*—The Governor or Rajpramukh of each State having Scheduled Areas therein shall annually, or whenever so required by the President, make a report to the President regarding the administration of the Scheduled Areas in that State and the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said areas.

## PART B.

### ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES.

4. *Tribes Advisory Council.*—(1) There shall be established in each State having Scheduled Areas therein and, if the President so directs, also in any State having Scheduled Tribes but not Scheduled Areas therein, a Tribes Advisory Council consisting of not more than twenty members of whom, as nearly as may be, three-fourths shall be the representatives of the Scheduled Tribes in the Legislative Assembly of the State :

Provided that if the number of representatives of the Scheduled Tribes in the Legislative Assembly of the State is less than the number of seats in the Tribes Advisory Council to be filled by such representatives, the remaining seats shall be filled by other members of those tribes.

(2) It shall be the duty of the Tribes Advisory Council to advise on such matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to them by the Governor or Rajpramukh, as the case may be.

(3) The Governor or Rajpramukh may make rules prescribing or regulating, as the case may be,—

(*a*) the number of members of the Council, the mode of their appointment and the appointment of the Chairman of the Council and of the officers and servants thereof ;

(*b*) the conduct of its meetings and its procedure in general ; and

(*c*) all other incidental matters.

5. *Law applicable to Scheduled Areas.*—(1) Notwithstanding anything in this Constitution, the Governor or Rajpramukh, as the case may be, may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification and any direction given under this sub-paragraph may be given so as to have retrospective effect.

(2) The Governor or Rajpramukh, as the case may be, may make regulations for the peace and good government of any area in a State which is for the time being a Scheduled Area.

In particular and without prejudice to the generality of the foregoing power, such regulations may—

(*a*) prohibit or restrict the transfer of land by or among members of the Scheduled Tribes in such area;

(*b*) regulate the allotment of land to members of the Scheduled Tribes in such area;

(*c*) regulate the carrying on of business as money-lender by persons who lend money to members of the Scheduled Tribes in such area.

(3) In making any such regulation as is referred to in sub-paragraph (2) of this paragraph, the Governor or Rajpramukh may repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to the area in question.

(4) All regulations made under this paragraph shall be submitted forthwith to the President and, until assented to by him, shall have no effect.

(5) No regulation shall be made under this paragraph unless the Governor or the Rajpramukh making the regulation has, in the case where there is a Tribes Advisory Council for the State, consulted such Council.

## PART C.

### SCHEDULED AREAS.

6. *Scheduled Areas.*—(1) In this Constitution, the expression "Scheduled Areas" means such areas as the President may by order declare to be Scheduled Areas.

(2) The President may at any time by order—

(*a*) direct that the whole or any specified part of a Scheduled Area shall cease to be a Scheduled Area or a part of such an area;

(*b*) alter, but only by way of rectification of boundaries, any Scheduled Area;

(*c*) on any alteration of the boundaries of a State or on the admission into the Union or the establishment of a new State, declare any territory not previously included in any State to be, or to form part of, a Scheduled Area;

and any such order may contain such incidental and consequential provisions as appear to the President to be necessary and proper, but save as aforesaid, the order made under sub-paragraph (1) of this paragraph shall not be varied by any subsequent order.

## PART D.

### AMENDMENT OF THE SCHEDULE.

7. *Amendment of the Schedule.*—(1) Parliament may from time to time by law amend by way of addition, variation or repeal any of the provisions of this Schedule and, when the Schedule is so amended, any reference to this Schedule in this Constitution shall be construed as a reference to such Schedule as so amended.

(2) No such law as is mentioned in sub-paragraph (1) of this paragraph shall be deemed to be an amendment of this Constitution for the purposes of article 368.

## SIXTH SCHEDULE.

[Articles 244 (2) and 275 (1).]

### Provisions as to the Administration of Tribal Areas in Assam.

1. *Autonomous districts and autonomous regions.*—(1) Subject to the provisions of this paragraph, the tribal areas in each item of Part A of the table appended to paragraph 20 of this Schedule shall be an autonomous district.

(2) If there are different Scheduled Tribes in an autonomous district, the Governor may, by public notification, divide the area or areas inhabited by them into autonomous regions.

(3) The Governor may, by public notification,—

(*a*) include any area in Part A of the said table,

(*b*) exclude any area from Part A of the said table,

(*c*) create a new autonomous district,

(*d*) increase the area of any autonomous district,

(*e*) diminish the area of any autonomous district,

(*f*) unite two or more autonomous districts or parts thereof so as to form one autonomous district,

(*g*) define the boundaries of any autonomous district:

Provided that no order shall be made by the Governor under clauses (*c*), (*d*), (*e*) and (*f*) of this sub-paragraph except after consideration of the report of a Commission appointed under sub-paragraph (1) of paragraph 14 of this Schedule.

2. *Constitution of District Councils and Regional Councils.*—(1) There shall be a District Council for each autonomous district consisting of not more than twenty-four members, of

whom not less than three-fourths shall be elected on the basis of adult suffrage.

(2) There shall be a separate Regional Council for each area constituted an autonomous region under sub-paragraph (2) of paragraph 1 of this Schedule.

(3) Each District Council and each Regional Council shall be a body corporate by the name respectively of "the District Council of (*name of district*)" and "the Regional Council of (*name of region*)", shall have perpetual succession and a common seal and shall by the said name sue and be sued.

(4) Subject to the provisions of this Schedule, the administration of an autonomous district shall, in so far as it is not vested under this Schedule in any Regional Council within such district, be vested in the District Council for such district and the administration of an autonomous region shall be vested in the Regional Council for such region.

(5) In an autonomous district with Regional Councils, the District Council shall have only such powers with respect to the areas under the authority of the Regional Council as may be delegated to it by the Regional Council in addition to the powers conferred on it by this Schedule with respect to such areas.

(6) The Governor shall make rules for the first constitution of District Councils and Regional Councils in consultation with the existing tribal Councils or other representative tribal organizations within the autonomous districts or regions concerned, and such rules shall provide for—

(*a*) the composition of the District Councils and Regional Councils and the allocation of seats therein;

(*b*) the delimitation of territorial constituencies for the purpose of elections to those Councils;

(*c*) the qualifications for voting at such elections and the preparation of electoral rolls therefor;

(*d*) the qualifications for being elected at such elections as members of such Councils;

(*e*) the term of office of members of such Councils;

(*f*) any other matter relating to or connected with elections or nominations to such Councils;

(*g*) the procedure and the conduct of business in the District and Regional Councils;

(*h*) the appointment of officers and staff of the District and Regional Councils,

(7) The District or the Regional Council may after its first constitution make rules with regard to the matters specified in sub-paragraph (6) of this paragraph and may also make rules regulating—

(*a*) the formation of subordinate local Councils or Boards and their procedure and the conduct of their business; and

(*b*) generally all matters relating to the transaction of business pertaining to the administration of the district or region, as the case may be:

Provided that until rules are made by the District or the Regional Council under this sub-paragraph the rules made by the Governor under sub-paragraph (6) of this paragraph shall have effect in respect of elections to, the officers and staff of, and the procedure and the conduct of business in, each such Council:

Provided further that the Deputy Commissioner or the Sub-Divisional Officer, as the case may be, of the North Cachar and Mikir Hills shall be the Chairman *ex-officio* of the District Council in respect of the territories included in items 5 and 6 respectively of Part A of the table appended to paragraph 20 of this Schedule and shall have power for a period of six years after the first constitution of the District Council, subject to the control of the Governor, to annul or modify any resolution or decision of the District Council or to issue such instructions to the District Council, as he may consider appropriate, and the District Council shall comply with every such instruction issued.

3. *Powers of the District Councils and Regional Councils to make laws.*—(1) The Regional Council for an autonomous region in respect of all areas within such region and the District Council for an autonomous district in respect of all areas within the district except those which are under the authority of Regional Councils, if any, within the district shall have power to make laws with respect to—

(*a*) the allotment, occupation or use, or the setting apart, of land, other than any land which is a reserved forest, for the purposes of agriculture or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interests of the inhabitants of any village or town:

Provided that nothing in such laws shall prevent the compulsory acquisition of any land, whether occupied or unoccupied, for public purposes by the Government of Assam in accordance with the law for the time being in force authorising such acquisition;

(*b*) the management of any forest not being a reserved forest;

(*c*) the use of any canal or water-course for the purpose of agriculture;

(*d*) the regulation of the practice of *jhum* or other forms of shifting cultivation;

(*e*) the establishment of village or town committees or councils and their powers;

(*f*) any other matter relating to village or town administration, including village or town police and public health and sanitation;

(*g*) the appointment or succession of Chiefs or Headmen;

(*h*) the inheritance of property;

(*i*) marriage;

(*j*) social customs.

(2) In this paragraph, a "reserved forest" means any area which is a reserved forest under the Assam Forest Regulation, 1891, or under any other law for the time being in force in the area in question.

(3) All laws made under this paragraph shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect.

4. *Administration of justice in autonomous districts and autonomous regions.*—(1) The Regional Council for an autonomous region in respect of areas within such region and the District Council for an autonomous district in respect of areas within the district other than those which are under the authority of the Regional Councils, if any, within the district may constitute village councils or courts for the trial of suits and cases between the parties all of whom belong to Scheduled Tribes within such areas, other than suits and cases to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply, to the exclusion of any court in the State, and may appoint suitable persons to be members of such village councils or presiding officers of such courts, and may also appoint such officers as may be necessary for the administration of the laws made under paragraph 3 of this Schedule.

(2) Notwithstanding anything in this Constitution, the Regional Council for an autonomous region or any court constituted in that behalf by the Regional Council or, if in respect of any area within an autonomous district there is no Regional Council, the District Council for such district, or any court constituted in that behalf by the District Council, shall exercise the powers of a court of appeal in respect of all suits and cases triable by a village council or court constituted under sub-paragraph (1) of this paragraph within

such region or area, as the case may be, other than those to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply, and no other court except the High Court and the Supreme Court shall have jurisdiction over such suits or cases.

(3) The High Court of Assam shall have and exercise such jurisdiction over the suits and cases to which the provisions of sub-paragraph (2) of this paragraph apply as the Governor may from time to time by order specify.

(4) A Regional Council or District Council, as the case may be, may with the previous approval of the Governor make rules regulating—

(*a*) the constitution of village councils and courts and the powers to be exercised by them under this paragraph;

(*b*) the procedure to be followed by village councils or courts in the trial of suits and cases under sub-paragraph (1) of this paragraph;

(*c*) the procedure to be followed by the Regional or District Council or any Court constituted by such Council in appeals and other proceedings under sub-paragraph (2) of this paragraph;

(*d*) the enforcement of decisions and orders of such Councils and courts;

(*e*) all other ancillary matters for the carrying out of the provisions of sub-paragraphs (1) and (2) of this paragraph.

5. *Conferment of powers under the Code of Civil Procedure,* 1908, *and the Code of Criminal Procedure,* 1898, *on the Regional and District Councils and on certain courts and officers for the trial of certain suits, cases and offences.*—(1) The Governor may, for the trial of suits or cases arising out of any law in force in any autonomous district or region being a law specified in that behalf by the Governor, or for the trial of offences punishable with death, transportation for life, or imprisonment for a term of not less than five years under the Indian Penal Code or under any other law for the time being applicable to such district or region, confer on the District Council or the Regional Council having authority over such district or region or on courts constituted by such District Council or on any officer appointed in that behalf by the Governor, such powers under the Code of Civil Procedure, 1908, or, as the case may be, the Code of Criminal Procedure, 1898, as he deems appropriate, and thereupon the said Council, court or office shall try the suits, cases or offences in exercise of the powers so conferred.

(2) The Governor may withdraw or modify any of the powers conferred on a District Council, Regional Council, court or officer under sub-paragraph (1) of this paragraph.

(3) Save as expressly provided in this paragraph, the Code of Civil Procedure, 1908, and the Code of Criminal Procedure, 1898, shall not apply to the trial of any suits, cases or offences in an autonomous district or in any autonomous region to which the provisions of this paragraph apply.

6. *Powers of the District Council to establish primary schools, etc.*—The District Council for an autonomous district may establish, construct, or manage primary schools, dispensaries, markets, cattle pounds, ferries, fisheries, roads and water-ways in the district and, in particular, may prescribe the language and the manner in which primary education shall be imparted in the primary schools in the district.

7. *District and Regional Funds.*—(1) There shall be constituted for each autonomous district, a District Fund and for each autonomous region, a Regional Fund to which shall be credited all moneys received respectively by the District Council for that district and the Regional Council for that region in the course of the administration of such district or region, as the case may be, in accordance with the provisions of this Constitution.

(2) Subject to the approval of the Governor, rules may be made by the District Council and by the Regional Council for the management of the District Fund or, as the case may be, the Regional Fund, and the rules so made may prescribe the procedure to be followed in respect of payment of money into the said Fund, the withdrawal of moneys therefrom, the custody of moneys therein and any other matter connected with or ancillary to the matter aforesaid.

8. *Powers to assess and collect land revenue and to impose taxes.*—(1) The Regional Council for an autonomous region in respect of all lands within such region and the District Council for an autonomous district in respect of all lands within the district except those which are in the areas under the authority of Regional Councils, if any, within the district, shall have the power to assess and collect revenue in respect of such lands in accordance with the principles for the time being followed by the Government of Assam in assessing lands for the purpose of land revenue in the State of Assam generally.

(2) The Regional Council for an autonomous region in respect of areas within such region and the District Council for an autonomous district in respect of all areas in the district except those which are under the authority of Regional Councils, if any, within the district, shall have power to levy

and collect taxes on lands and buildings, and tolls on persons resident within such areas.

(3) The District Council for an autonomous district shall have the power to levy and collect all or any of the following taxes within such district, that is to say—

(*a*) taxes on professions, trades, callings and employments;

(*b*) taxes on animals, vehicles and boats;

(*c*) taxes on the entry of goods into a market for sale therein, and tolls on passengers and goods carried in ferries; and

(*d*) taxes for the maintenance of schools, dispensaries or roads.

(4) A Regional Council or District Council, as the case may be, may make regulations to provide for the levy and collection of any of the taxes specified in sub-paragraphs (2) and (3) of this paragraph.

9. *Licences or leases for the purpose of prospecting for, or extraction of, minerals.*—(1) Such share of the royalties accruing each year from licences or leases for the purpose of prospecting for, or the extraction of, minerals granted by the Government of Assam in respect of any area within an autonomous district as may be agreed upon between the Government of Assam and the District Council of such district shall be made over to that District Council.

(2) If any dispute arises as to the share of such royalties to be made over to a District Council, it shall be referred to the Governor for determination and the amount determined by the Governor in his discretion shall be deemed to be the amount payable under sub-paragraph (1) of this paragraph to the District Council and the decision of the Governor shall be final.

10. *Power of District Council to make regulations for the control of money-lending and trading by non-tribals.*—(1) The District Council of an autonomous district may make regulations for the regulation and control of money-lending or trading within the district by persons other than Scheduled Tribes resident in the district.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may—

(*a*) prescribe that no one except the holder of a licence issued in that behalf shall carry on the business of money-lending;

(*b*) prescribe the maximum rate of interest which may be charged or be recovered by a money-lender;

(*c*) provide for the maintenance of accounts by money-lenders and for the inspection of such accounts by officers appointed in that behalf by the District Council;

(*d*) prescribe that no person who is not a member of the Scheduled Tribes resident in the district shall carry on wholesale or retail business in any commodity except under a licence issued in that behalf by the District Council:

Provided that no regulations may be made under this paragraph unless they are passed by a majority of not less than three-fourths of the total membership of the District Council:

Provided further that it shall not be competent under any such regulations to refuse the grant of a licence to a money-lender or a trader who has been carrying on business within the district since before the time of the making of such regulations.

(3) All regulations made under this paragraph shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect.

11. *Publication of laws, rules and regulations made under the Schedule.*—All laws, rules and regulations made under this Schedule by a District Council or a Regional Council shall be published forthwith in the Official Gazette of the State and shall on such publication have the force of law.

12. *Application of Acts of Parliament and of the Legislature of the State to autonomous districts and autonomous regions.*—(1) Notwithstanding anything in this Constitution—

(*a*) no Act of the Legislature of the State in respect of any of the matters specified in paragraph 3 of this Schedule as matters with respect to which a District Council or a Regional Council may make laws, and no Act of the Legislature of the State prohibiting or restricting the consumption of any non-distilled alcoholic liquor shall apply to any autonomous district or autonomous region unless in either case the District Council for such district or having jurisdiction over such region by public notification so directs, and the District Council in giving such direction with respect to any Act may direct that the Act shall in its application to such district or region or any part thereof have effect subject to such exceptions or modifications as it thinks fit;

(*b*) the Governor may, by public notification, direct that any Act of Parliament or of the Legislature of the State to which the provisions of clause (*a*) of this sub-paragraph do not apply shall not apply to an autonomous district or an autonomous region, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification.

(2) Any direction given under sub-paragraph (1) of this paragraph may be given so as to have retrospective effect.

13. *Estimated receipts and expenditure pertaining to autonomous districts to be shown separately in the annual financial statement.*—The estimated receipts and expenditure pertaining to an autonomous district which are to be credited to, or is to be made from, the Consolidated Fund of the State of Assam shall be first placed before the District Council for discussion and then after such discussion be shown separately in the annual financial statement of the State to be laid before the Legislature of the State under article 202.

14. *Appointment of Commission to inquire into and report on the administration of autonomous districts and autonomous regions.*—(1) The Governor may at any time appoint a Commission to examine and report on any matter specified by him relating to the administration of the autonomous districts and autonomous regions in the State, including matters specified in clauses (*c*), (*d*), (*e*) and (*f*) of sub-paragraph (3) of paragraph 1 of this Schedule, or may appoint a Commission to inquire into and report from time to time on the administration of autonomous districts and autonomous regions in the State generally and in particular on—

(*a*) the provision of educational and medical facilities and communications in such districts and regions;

(*b*) the need for any new or special legislation in respect of such districts and regions; and

(*c*) the administration of the laws, rules and regulations made by the District and Regional Councils;

and define the procedure to be followed by such Commission.

(2) The report of every such Commission with the recommendations of the Governor with respect thereto shall be laid before the Legislature of the State by the Minister concerned together with an explanatory memorandum regarding the action proposed to be taken thereon by the Government of Assam.

(3) In allocating the business of the Government of the State among his Ministers the Governor may place one of his Ministers specially in charge of the welfare of the autonomous districts and autonomous regions in the State.

15. *Annulment or suspension of acts and resolutions of District and Regional Councils.*—(1) If at any time the Governor is satisfied that an act or resolution of a District or a Regional Council is likely to endanger the safety of India,

he may annul or suspend such act or resolution and take such steps as he may consider necessary (including the suspension of the Council and the assumption to himself of all or any of the powers vested in or exercisable by the Council) to prevent the commission or continuance of such act, or the giving of effect to such resolution.

(2) Any order made by the Governor under sub-paragraph (1) of this paragraph together with the reasons therefor shall be laid before the Legislature of the State as soon as possible and the order shall, unless revoked by the Legislature of the State, continue in force for a period of twelve months from the date on which it was so made :

Provided that if and so often as a resolution approving the continuance in force of such order is passed by the Legislature of the State, the order shall unless cancelled by the Governor continue in force for a further period of twelve months from the date on which under this paragraph it would otherwise have ceased to operate.

16. *Dissolution of a District or a Regional Council.*—The Governor may on the recommendation of a Commission appointed under paragraph 14 of this Schedule by public notification order the dissolution of a District or a Regional Council and—

(*a*) direct that a fresh general election shall be held immediately for the reconstitution of the Council, or

(*b*) subject to the previous approval of the Legislature of the State assume the administration of the area under the authority of such Council himself or place the administration of such area under the Commission appointed under the said paragraph or any other body considered suitable by him for a period not exceeding twelve months :

Provided that when an order under clause (*a*) of this paragraph has been made, the Governor may take the action referred to in clause (*b*) of this paragraph with regard to the administration of the area in question pending the reconstitution of the Council on fresh general election :

Provided further that no action shall be taken under clause (*b*) of this paragraph without giving the District or the Regional Council, as the case may be, an opportunity of placing its views before the Legislature of the State.

17. *Exclusion of areas from autonomous districts in forming constituencies in such districts.*—For the purposes of elections to the Legislative Assembly of Assam, the Governor may by order declare that any area within an autonomous district shall not form part of any constituency to fill a seat or

seats in the Assembly reserved for any such district but shall form part of a constituency to fill a seat or seats in the Assembly not so reserved to be specified in the order.

18. *Application of the provisions of this Schedule to areas specified in Part B of the table appended to paragraph 20.*—(1) The Governor may—

(*a*) subject to the previous approval of the President, by public notification, apply all or any of the foregoing provisions of this Schedule to any tribal area specified in Part B of the table appended to paragraph 20 of this Schedule or any part of such area and thereupon such area or part shall be administered in accordance with such provisions, and

(*b*) with like approval, by public notification, exclude from the said table any tribal area specified in Part B of that table or any part of such area.

(2) Until a notification is issued under sub-paragraph (1) of this paragraph in respect of any tribal area specified in Part B of the said table or any part of such area, the administration of such area or part thereof, as the case may be, shall be carried on by the President through the Governor of Assam as his agent and the provisions of Part IX shall apply thereto as if such area or part thereof were a territory specified in Part D of the First Schedule.

(3) In the discharge of his functions under sub-paragraph (2) of this paragraph as the agent of the President the Governor shall act in his discretion.

19. *Transitional provisions.*—(1) As soon as possible after the commencement of this Constitution the Governor shall take steps for the constitution of a District Council for each autonomous district in the State under this Schedule and, until a District Council is so constituted for an autonomous district, the administration of such district shall be vested in the Governor and the following provisions shall apply to the administration of the areas within such district instead of the foregoing provisions of this Schedule, namely:—

(*a*) no Act of Parliament or of the Legislature of the State shall apply to any such area unless the Governor by public notification so directs; and the Governor in giving such a direction with respect to any Act may direct that the Act shall, in its application to the area or to any specified part thereof, have effect subject to such exceptions or modifications as he thinks fit;

(*b*) the Governor may make regulations for the peace and good government of any such area and any regulations so made may repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to such area.

(2) Any direction given by the Governor under clause (*a*) of sub-paragraph (1) of this paragraph may be given so as to have retrospective effect.

(3) All regulations made under clause (*b*) of sub-paragraph (1) of this paragraph shall be submitted forthwith to the President and, until assented to by him, shall have no effect.

20. *Tribal areas.*—(1) The areas specified in Parts A and B of the table below shall be the tribal areas within the State of Assam.

(2) The United Khasi-Jaintia Hills District shall comprise the territories which before the commencement of this Constitution were known as the Khasi States and the Khasi and Jaintia Hills District, excluding any areas for the time being comprised within the cantonment and municipality of Shillong, but including so much of the area comprised within the municipality of Shillong as formed part of the Khasi State of Mylliem :

Provided that for the purposes of clauses (*e*) and (*f*) of sub-paragraph (1) of paragraph 3, paragraph 4, paragraph 5, paragraph 6, sub-paragraph (2), clauses (*a*), (*b*) and (*d*) of sub-paragraph (3) and sub-paragraph (4) of paragraph 8, and clause (*d*) of sub-paragraph (2) of paragraph 10 of this Schedule, no part of the area comprised within the municipality of Shillong shall be deemed to be within the District.

(3) Any reference in the table below to any district (other than the United Khasi-Jaintia Hills District) or administrative area shall be construed as a reference to that district or area at the commencement of this Constitution :

Provided that the tribal areas specified in Part B of the table below shall not include any such areas in the plains as may, with the previous approval of the President, be notified by the Governor of Assam in that behalf.

TABLE.

*Part A.*

1 The United Khasi-Jaintia Hills District.
2 The Garo Hills District.
3 The Lushai Hills District.
4 The Naga Hills District.
5 The North Cachar Hills.
6 The Mikir Hills.

*Part B.*

1. North-East Frontier Tract including Balipara Frontier Tract, Tirap Frontier Tract, Abor Hills District and Misimi Hills District.

2. The Naga Tribal Area.

21. *Amendment of the Schedule.*—(1) Parliament may from time to time by law amend by way of addition, variation or repeal any of the provisions of this Schedule and, when the Schedule is so amended, any reference to this Schedule in this Constitution shall be construed as a reference to such Schedule as so amended.

(2) No such law as is mentioned in sub-paragraph (1) of this paragraph shall be deemed to be an amendment of this Constitution for the purposes of article 368.

## SEVENTH SCHEDULE.

[Article 246]

### List I—Union List.

1. Defence of India and every part thereof including preparation for defence and all such acts as may be conducive in times of war to its prosecution and after its termination to effective demobilisation.

2. Naval, military and air forces; any other armed froces of the Union.

3. Delimitation of cantonment areas, local self-government in such areas, the constitution and powers within such areas of cantonment authorities and the regulation of house accommodation (including the control of rents) in such areas.

4. Naval, military and air force works.

5. Arms, firearms, ammunition and explosives.

6. Atomic energy and mineral resources necessary for its production.

7. Industries declared by Parliament by law to be necessary for the purpose of defence or for the prosecution of war.

8. Central Bureau of Intelligence and Investigation.

9. Preventive detention for reasons connected with Defence, Foreign Affairs, or the security of India; persons subject to such detention.

10. Foreign Affairs; all matters which bring the Union into relation with any foreign country.

11. Diplomatic, consular and trade representation.

12. United Nations Organisation.

13. Participation in international conferences, associations and other bodies and implementing of decisions made thereat.

14. Entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions with foreign countries.

15. War and peace.

16. Foreign jurisdiction.

17. Citizenship, naturalisation and aliens.

18. Extradition.

19. Admission into, and emigration and expulsion from, India; passports and visas.

20. Pilgrimages to places outside India.

21. Piracies and crimes committed on the high seas or in the air; offences against the law of nations committed on land or the high seas or in the air.

22. Railways.

23. Highways declared by or under law made by Parliament to be national highways.

24. Shipping and navigation on inland waterways, declared by Parliament by law to be national waterways, as regards mechanically propelled vessels; the rule of the road on such waterways.

25. Maritime shipping and navigation, including shipping and navigation on tidal waters; provision of education and training for the mercantile marine and regulation of such education and training provided by States and other agencies.

26. Lighthouses, including lightships, beacons and other provision for the safety of shipping and aircraft.

27. Ports declared by or under law made by Parliament or existing law to be major ports, including their delimitation, and the constitution and powers of port authorities therein.

28. Port quarantine, including hospitals connected therewith; seamen's and marine hospitals.

29. Airways; aircraft and air navigation; provision of aerodromes; regulation and organisation of air traffic and of aerodromes; provision for aeronautical education and training and regulation of such education and training provided by States and other agencies.

30. Carriage of passengers and goods by railway, sea or air, or by national waterways in mechanically propelled vessels.

31. Posts and telegraphs; telephones, wireless, broadcasting and other like forms of communication.

32. Property of the Union and the revenue therefrom, but as regards property situated in a State specified in Part A or Part B of the First Schedule subject to legislation by the State, save in so far as Parliament by law otherwise provides.

33. Acquisition or requisitioning of property for the purposes of the Union.

34. Courts of wards for the estates of Rulers of Indian States.

35. Public debt of the Union.

36. Currency, coinage and legal tender; foreign exchange.

37. Foreign loans.

38. Reserve Bank of India.

39. Post Office Savings Bank.

40. Lotteries organized by the Government of India or the Government of a State.

41. Trade and commerce with foreign countries; import and export across customs frontiers; definition of customs frontiers.

42. Inter-State trade and commerce.

43. Incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations but not including co-operative societies.

44. Incorporation, regulation and winding up of corporations, whether trading or not, with objects not confined to one State, but not including universities.

45. Banking.

46. Bills of exchange, cheques, promissory notes and other like instruments.

47. Insurance.

48. Stock exchanges and futures markets.

49. Patents, inventions and designs; copyright; trade marks and merchandise marks.

50. Establishment of standards of weight and measure.

51. Establishment of standards of quality for goods to be exported out of India or transported from one State to another.

52. Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest.

53. Regulation and development of oilfields and mineral oil resources; petroleum and petroleum products; other liquids and substances declared by Parliament by law to be dangerously inflammable.

54. Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.

55. Regulation of labour and safety in mines and oilfields.

56. Regulation and development of inter-State rivers and river valleys to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.

57. Fishing and fisheries beyond territorial waters.

58. Manufacture, supply and distribution of salt by Union agencies; regulation and control of manufacture, supply and distribution of salt by other agencies.

59. Cultivation, manufacture, and sale for export, of opium.

60. Sanctioning of cinematograph films for exhibition.

61. Industrial disputes concerning Union employees.

62. The institutions known at the commencement of this Constitution as the National Library, the Indian Museum, the Imperial War Museum, the Victoria Memorial and the Indian War Memorial, and any other like institution financed by the Government of India wholly or in part and declared by Parliament by law to be an institution of national importance.

63. The institutions known at the commencement of this Constitution as the Benares Hindu University, the Aligarh Muslim University and the Delhi University, and any other institution declared by Parliament by law to be an institution of national importance.

64. Institutions for scientific or technical education financed by the Government of India wholly or in part and declared by Parliament by law to be institutions of national importance.

65. Union agencies and institutions for—

(a) professional, vocational or technical training, including the training of police officers; or

(b) the promotion of special studies or research; or

(c) scientific or technical assistance in the investigation or detection of crime.

66. Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.

67. Ancient and historical monuments and records, and archæological sites and remains, declared by Parliament by law to be of national importance.

*Seventh Schedule.*

68. The survey of India, the Geological, Botanical, Zoological and Anthropological Surveys of India; Meteorological organisations.

69. Census.

70. Union public services; all-India services; Union Public Service Commission.

71. Union pensions, that is to say, pensions payable by the Government of India or out of the Consolidated Fund of India.

72. Elections to Parliament, to the Legislatures of States and to the offices of President and Vice-President; the Election Commission.

73. Salaries and allowances of members of Parliament, the Chairman and Deputy Chairman of the Council of States and the Speaker and Deputy Speaker of the House of the People.

74. Powers, privileges and immunities of each House of Parliament and of the members and the committees of each House; enforcement of attendance of persons for giving evidence or producing documents before committees of Parliament or commissions appointed by Parliament.

75. Emoluments, allowances, privileges, and rights in respect of leave of absence, of the President and Governors; salaries and allowances of the Ministers for the Union; the salaries, allowances, and rights in respect of leave of absence and other conditions of service of the Comptroller and Auditor-General.

76. Audit of the accounts of the Union and of the States.

77. Constitution, organisation, jurisdiction and powers of the Supreme Court (including contempt of such Court), and the fees taken therein; persons entitled to practise before the Supreme Court.

78. Constitution and organisation of the High Courts except provisions as to officers and servants of High Courts; persons entitled to practise before the High Courts.

79. Extension of the jurisdiction of a High Court having its principal seat in any State to, and exclusion of the jurisdiction of any such High Court from, any area outside that State.

80. Extension of the powers and jurisdiction of members of a police force belonging to any State to any area outside that State, but not so as to enable the police of one State to exercise powers and jurisdiction in any area outside that State without the consent of the Government of the State in which

such area is situated; extension of the powers and jurisdiction of members of a police force belonging to any State to railway areas outside that State.

81. Inter-State migration; inter-State quarantine.

82. Taxes on income other than agricultural income.

83. Duties of customs including export duties.

84. Duties of excise on tobacco and other goods manufactured or produced in India except—

(*a*) alcoholic liquors for human consumption;

(*b*) opium, Indian hemp and other narcotic drugs and narcotics,

but including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (*b*) of this entry.

85. Corporation tax.

86. Taxes on the capital value of the assets, exclusive of agricultural land, of individuals and companies; taxes on the capital of companies.

87. Estate duty in respect of property other than agricultural land.

88. Duties in respect of succession to property other than agricultural land.

89. Terminal taxes on goods or passengers, carried by railway, sea or air; taxes on railway fares and freights.

90. Taxes other than stamp duties on transactions in stock exchanges and futures markets.

91. Rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts.

92. Taxes on the sale or purchase of newspapers and on advertisements published therein.

93. Offences against laws with respect to any of the matters in this List.

94. Inquiries, surveys and statistics for the purpose of any of the matters in this List.

95. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List; admiralty jurisdiction.

96. Fees in respect of any of the matters in this List, but not including fees taken in any court.

97. Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists.

*Seventh Schedule.*

**List II—State List.**

1. Public order (but not including the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power).

2. Police, including railway and village police.

3. Administration of justice; constitution and organisation of all courts, except the Supreme Court and the High Court; officers and servants of the High Court; procedure in rent and revenue courts; fees taken in all courts except the Supreme Court.

4. Prisons, reformatories, borstal institutions and other institutions of a like nature, and persons detained therein; arrangements with other States for the use of prisons and other institutions.

5. Local government, that is to say, the constitution and powers of municipal corporations, improvement trusts, district boards, mining settement authorities and other local authorities for the purpose of local self-government or village administration.

6. Public health and sanitation; hospitals and dispensaries.

7. Pilgrimages, other than pilgrimages to places outside India.

8. Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors.

9. Relief of the disabled and unemployable.

10. Burials and burial grounds; cremations and cremation grounds.

11. Education including universities, subject to the provisions of entries 63, 64, 65 and 66 of List I and entry 25 of List III.

12. Libraries, museums and other similar institutions controlled or financed by the State; ancient and historical monuments and records other than those declared by Parliament by law to be of national importance.

13. Communications, that is to say, roads, bridges, ferries, and other means of communication not specified in List I; municipal tramways; ropeways; inland waterways and traffic thereon subject to the provisions of List I and List III with regard to such waterways; vehicles other than mechanically propelled vehicles.

14. Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases.

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15. Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice.

16. Pounds and the prevention of cattle trespass.

17. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of entry 56 of List I.

18. Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricltural loans; colonization.

19. Forests.

20. Protection of wild animals and birds.

21. Fisheries.

22. Courts of wards subject to the provisions of entry 34 of List I; encumbered and attached estates.

23. Regulation of mines and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union.

24. Industries subject to the provisions of entry 52 of List I.

25. Gas and gas-works.

26. Trade and commerce within the State subject to the provisions of entry 33 of List III.

27. Production, supply and distribution of goods subject to the provisions of entry 33 of List III.

28. Markets and fairs.

29. Weights and measures except establishment of standards.

30. Money-lending and money-lenders; relief of agricultural indebtedness.

31. Inns and inn-keepers.

32. Incorporation, regulation and winding up of corporations, other than those specified in List I, and universities; unincorporated trading, literary, scientific, religious and other societies and associations; co-operative societies.

33. Theatres and dramatic performances; cinema subject to the provisions of entry 60 of List I; sports, enterainments and amusements.

34. Betting and gambling.

35. Works, lands and buildings vested in or in the possession of the State.

36. Acquisition or requisitioning of property, except for the purposes of the Union, subject to the provisions of entry 42 of List III.

37. Elections to the Legislature of the State subject to the provisions of any law made by Parliament.

38. Salaries and allowances of members of the Legislature of the State, of the Speaker and Deputy Speaker of the Legislative Assembly and, if there is a Legislative Council, of the Chairman and Deputy Chairman thereof.

39. Powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof, and, if there is a Legislative Council, of that Council and of the members and the committees thereof, enforcement of attendance of persons for giving evidence or producing documents before committees of the Legislature of the State.

40. Salaries and allowances of Ministers for the State.

41. State public services; State Public Service Commission.

42. State pensions, that is to say, pensions payable by the State or out of the Consolidated Fund of the State.

43. Public debt of the State.

44. Treasure trove.

45. Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights, and alienation of revenues.

46. Taxes on agricultural income.

47. Duties in respect of succession to agricultural land.

48. Estate duty in respect of agricultural land.

49. Taxes on lands and buildings.

50. Taxes on mineral rights subject to any limitations imposed by Parliament by law relating to mineral development.

51. Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India :—

(*a*) alcoholic liquors for human consumption;

(*b*) opium, Indian hemp and other narcotic drugs and narcotics;

but not including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (*b*) of this entry.

52. Taxes on the entry of goods into a local area for consumption, use or sale therein.

53. Taxes on the consumption or sale of electricity.

54. Taxes on the sale or purchase of goods other than newspapers.

55. Taxes on advertisements other than advertisements published in the newspapers.

56. Taxes on goods and passengers carried by road or on inland waterways.

57. Taxes on vehicles, whether mechanically propelled or not, suitable for use on roads, including tramcars subject to the provisions of entry 35 of List III.

58. Taxes on animals and boats.

59. Tolls.

60. Taxes on professions, trades, callings and employments.

61. Capitation taxes.

62. Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.

63. Rates of stamp duty in respect of documents other than those specified in the provisions of List I with regard to rates of stamp duty.

64. Offences against laws with respect to any of the matters in this List.

65. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List.

66. Fees in respect of any of the matters in this List, but not including fees taken in any court.

## List III—Concurrent List.

1. Criminal law, including all matters included in the Indian Penal Code at the commencement of this Constitution but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power.

2. Criminal procedure, including all matters included in the Code of Criminal Procedure at the commencement of this Constitution.

3. Preventive detention for reasons connected with the security of the State, the maintenance of public order, or the maintenance of supplies and services essential to the community; persons subjected to such detention.

4. Removal from one State to another State of prisoners, accused persons and persons subjected to preventive detention for reasons specified in entry 3 of this List.

5. Marriage and divorce; infants and minors; adoption; wills, intestacy and succession; joint family and partition; all matters in respect of which parties in judicial proceedings were immediately before the commencement of this Constitution subject to their personal law.

6. Transfer of property other than agricultural land; registration of deeds and documents.

7. Contracts, including partnership, agency, contracts of carriage, and other special forms of contracts, but not including contracts relating to agriclutural land.

8. Actionable wrongs.

9. Bankruptcy and insolvency.

10. Trust and Trustees.

11. Administrators-general and official trustees.

12. Evidence and oaths; recognition of laws, public acts and records, and judicial proceedings.

13. Civil procedure, including all matters included in the Code of Civil Procedure at the commencement of this Constitution, limitation and arbitration.

14. Contempt of court, but not including contempt of the Supreme Court.

15. Vagrancy; nomadic and migratory tribes.

16. Lunacy and mental deficiency, including places for the reception or treatment of lunatics and mental deficients.

17. Prevention of cruelty to animals.

18. Adulteration of foodstuffs and other goods.

19. Drugs and poisons, subject to the provisions of entry 59 of List I with respect to opium.

20. Economic and social planning.

21. Commercial and industrial monopolies, combines and trusts.

22. Trade Unions; industrial and labour disputes.

23. Social security and social insurance; employment and unemployment.

24. Welfare of labour including conditions of work, provident funds, employers' liability, workmen's compensation, invalidity and old age pensions and maternity benefits.

25. Vocational and technical training of labour.

26. Legal, medical and other professions.

*Seventh Schedule.*

27. Relief and rehabilitation of persons displaced from their original place of residence by reason of the setting up of the Dominions of India and Pakistan.

28. Charities and charitable institutions, charitable and religious endowments and religious institutions.

29. Prevention of the extension from one State to another of infectious or contagious diseases or pests affecting men, animals or plants.

30. Vital statistics including registration of births and deaths.

31. Ports other than those declared by or under law made by Parliament or existing law to be major ports.

32. Shipping and navigation on inland waterways as regards mechanically propelled vessels, and the rule of the road on such waterways, and the carriage of passengers and goods on inland waterways subject to the provisions of List I with respect to national waterways.

33. Trade and commerce in, and the production, supply and distribution of, the products of industries where the control of such industries by the Union is declared by Parliament by law to be expedient in the public interest.

34. Price control.

35. Mechanically propelled vehicles including the principles on which taxes on such vehicles are to be levied.

36. Factories.

37. Boilers.

38. Electricity.

39. Newspapers, books and printing presses.

40. Archæological sites and remains other than those declared by Parliament by law to be of national importance.

41. Custody, management and disposal of property (including agricultural land) declared by law to be evacuee property.

42. Principles on which compensation for property acquired or requisitioned for the purposes of the Union or if a State or for any other public purposes is to be determined, and the form and the manner in which such compensation is to be given.

43. Recovery in a State of claims in respect of taxes and other public demands, including arrears of land revenue and sums recoverable as such arrears, arising outside that State.

44. Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty.

45. Inquiries and statistics for the purposes of any of the matters specified in List II or List III.

46. Jurisdiction and powers of all Courts, except the Supreme Court, with respect to any of the matters in this List.

47. Fees in respect of any of the matters in this List, but not including fees taken in any Court.

## EIGHTH SCHEDULE.

[Articles 344 (1) and 351.]

**Languages.**

1 Assamese.
2 Bengali.
3 Gujarati.
4 Hindi.
5 Kannada.
6 Kashmiri.
7 Malayalam.
8 Marathi.
9 Oriya.
10 Punjabi.
11 Sanskrit.
12 Tamil.
13 Telugu.
14 Urdu.

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Republished by Order of His Highness the Maharaja of Mysore.

K. SRINIVASAN,
*Chief Secretary.*

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# The Mysore Gazette

(PUBLISHED BY AUTHORITY)

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## PART IV

### Section 2-B

### NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS.

### NOTIFICATIONS.

No. S.R. 3502-3—Ex. 85-49-4, dated Bangalore, 4th February 1950.

In exercise of the powers conferred by clause (*d*) of section 28 of the Mysore Prohibition Act, 1948 (XXXVII of 1948), the Government of Mysore are pleased to appoint the Excise Assistant Inspectors attached to the Excise and Prohibition Intelligence Bureau in Mysore as Prohibition Assistant Inspectors and to direct that they shall exercise all the powers and perform all the duties of a Prohibition Officer:

Provided that a Prohibition Assistant Inspector shall not be competent to exercise any powers or perform any duty which only the Commissioner or a Deputy Commissioner can exercise or perform under the said Act.

No. S. R. 3504-5—Ex. 85-49-3, dated 4th February 1950.

In exercise of the powers conferred by clauses (d) and (f) of Section 28 of the Mysore Prohibition Act, 1948, (Act XXXVII of 1948), the Government of Mysore are pleased to appoint the Excise Inspector, Excise and Prohibition Intelligence Bureau in Mysore, to be Assistant Prohibition Officer, in the areas in which the said Act is in force and to exercise all the powers and to perform all the duties of a Prohibition Officer under the Act except those under Section 31.

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No. S.R. 3506-7—Ex. 85-49-5, dated Bangalore, 4th February 1950.

In exercise of the powers conferred by clause (*d*) of section 28 of the Mysore Prohibition Act, 1948 (XXXVII of 1948), the Government of Mysore are pleased to appoint the Peons of the Excise and Prohibition Intelligence Bureau in Mysore as Prohibition Guards to exercise the powers and perform the duties of a Prohibition Officer under sections 35 and 36 of the said Act. The said Prohibition Guards shall also be deemed to be Prohibition Officers for purposes of sections 38, 39, 40 and 59 of the said Act.

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No. R. 7789—L. S. 92-49-3, dated Bangalore, 6th February 1950.

Under Section 236 of the Mysore Land Revenue Code, Regulation No. IV of 1888, the Government of Mysore are pleased to authorise the extension of the provisions of Chapters VIII to X of the said Code to the village of Byranahalli, in the taluk of Harihar.

SYED ABDUL ALEEM,
*Secretary to Government,*
*Revenue Department.*

No. D. 8931—Geo. 48-48-6, dated Bangalore, the 6—10th February 1950.

The draft of the following amendment to the Mysore Cinematograph Film Rules, 1949, which it is proposed to make in exercise of the powers conferred by Section 4 and sub-section (1) of Section 29 of the Mysore Petroleum Act,

1942, (VI of 1942) as applied to the storage and transport of Cinematograph Films having a Nitro-Cellulose base in Notification No. D. 7457—Geo. 48-48-3, dated 18th April 1949, is hereby published for the information of all persons likely to be affected thereby as required in sub-section (2) of Section 29 of the said Act.

Notice is hereby given that the draft will be taken into consideration after one month of the publication of this notification.

Objections or suggestions, if any, may be forwarded to the Secretary to Government, General Department, for consideration so as to reach him on or before the said date.

Objections or suggestions received after the said date will not be considered.

**Draft.**

In rule 2 of the Mysore Cinematograph Film Rules, 1949, for the words "one and a half years", the words "two years" shall be substituted.

By Order of His Highness the Maharaja,

A. C. NIRVANI GOWDA,
*Secretary to Government,*
*General Department.*

No. T. 5950—R.T. 177-48-18, dated Bangalore, 7th February 1950.

The draft of the following further amendments to the Mysore Motor Vehicles and Road Traffic Rules, 1945, which the Government of Mysore propose to make in exercise of the powers conferred by Section 53 of the Mysore Motor Vehicles and Road Traffic Act, 1944 (XXVII of 1944), is hereby published for the information of persons likely to be affected thereby as required by Section 125 of the said Act.

Notice is hereby given that any suggestion or objection to the said draft may be forwarded to the Secretary to Government, General Department, so as to reach him on or before the 15th March 1950, for consideration. Any suggestion or objections received thereafter will not be considered.

**Draft Amendment.**

In Rule 132 (b) of the Mysore Motor Vehicles and Road Traffic Rules, 1945, for the first para before the two provisos, the following para shall be substituted, namely:—

"No permit to ply for hire in Mysore shall be granted,

(i) to any public service vehicle other than a motor cab, which is more than five years old from the date of its original registration;

(ii) to any goods vehicle which is more than five years old from the date of its original registration; or

(iii) to any motor cab which is more than eight years old from the date of its original registration."

---

No. T. 5990—R.T. 2-49-17, dated Bangalore, 7th February 1950.

In exercise of the powers conferred under Section 45 of Mysore Motor Vehicles and Road Traffic Act, 1944, the Government of Mysore are pleased to nominate Sri G. R. Josyer, President of the Mysore District Automobile Association, Mysore, as an additional member of the District Traffic Advisory Committee, Mysore, re-constituted in Government Notification No. T. 3425—R.T. 2-49-13, dated 12th November 1949.

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No. T. 6088—R.T. 1-49-24, dated Bangalore, the 10th February 1950.

In exercise of the powers conferred by Section 83 of the Mysore Motor Vehicles and Road Traffic Act, 1944, the Government of Mysore are pleased to exempt from payment of taxes in the State the motor vehicles belonging to the Indian Posts and Telegraphs Department registered in the Mysore State which are not used for the carriage of passengers or goods for hire or reward.

A. C. NIRVANI GOWDA,
*Secretary to Government,*
*General Department.*

No. C. 1243—Co. 23-49-29, dated Bangalore, 11th February 1950.

In exercise of the powers conferred by Section 3 and clause (a) of sub-section (1) of Section 4 of the Mysore Drugs (Control) (Emergency) Act, 1949 (Act No. LXVIII of 1949), the Government of Mysore are pleased to direct that the following further amendments shall be made in the Schedule to Notification No. C. 3130—Co., dated the 3rd October 1949, published in Part IV, Section 2-B of the *Mysore Gazette* Extraordinary, dated the 3rd October 1949, namely,—

In respect of the drug in the said Schedule specified in column 1 hereunder which is manufactured by Martin and Harris Ltd., Bombay, E. R. Squibb and Sons International Corporation Incorporated, New York, U.S.A., for the price specified in column 2 of the said Schedule, the price specified in column 2 hereunder shall be substituted.

*Martin and Harris Ltd., Bombay,*
*E. R. Squibb and Sons International Corporation Incorporated,*
*New York, U.S.A.*

| | Rs. | a. | p. |
|---|---|---|---|
| Rubramin (Vitamin B12) Concentrate Box of 5 x 1 c.c. | 21 | 0 | 0 |

By Order of His Highness the Maharaja,

A. S. KHALEEL,
*Public Health, Food and Civil Supplies Secy.*

No. C. 1257—Co. 22-49-11, dated Bangalore, the 11th February 1950.

In exercise of the powers conferred by sub-rule (2) of Rule 81 of the Defence of India Rules as applied to Mysore and continued by the Supplies, Services and Miscellaneous Provisions (Temporary Powers) Act, 1947 (Act XX of 1947), the Government of Mysore are pleased to publish the following notifications issued by the Textile

Commissioner, Bombay, under the Mysore Cotton Control Order, 1949.

By Order of His Highness the Maharaja,

A. S. KHALEEL,
*Public Health, Food and Civil Supplies Secy.*

No. C. 1258—Co. 22-49-12.—In pursuance of clause 6 of the Cotton Control Order, 1949, I hereby direct that the following amendments shall be made in the General Permission No. 1 contained in the Textile Commissioner's Notification No. C. 694—Co. 22-49-5, dated 7th November 1949, namely :—

In the said notification—

(1) In paragraph 3 for the words "Textile Commissioner" the words "The Textile Commissioner or the Director (Cotton) or an Assistant Director (Cotton) in the Office of the Textile Commissioner" shall be substituted ;

(2) In paragraph 6—

(*i*) in item (a) after the words and figures "Gaorani 6 and 12 grown outside the protected areas" the words "Malvi" shall be inserted ;

(*ii*) The words and figures "has a minimum staple length of 7/8" and" shall be deleted.

No. C. 1259—Co. 22-49-13.—In exercise of the powers conferred on me under clause 21 of the Cotton Control Order, 1949, and with the sanction of Government, I hereby authorise each of the Officers specified in column 2 of the table below to exercise on my behalf the functions and powers of the Textile Commissioner under the clause of the said order specified in column 1 :—

TABLE.

| *Clause* | *Officers.* |
|---|---|
| 7 (1) and 8 ... | Mr. T. B. Dalal, Director (Cotton), Office of the Textile Commissioner. |
| 14 and 15 ... | (1) Mr. T. B. Dalal, Director (Cotton), Office of the Textile Commissioner.<br>(2) Each of the Licensing Authorities appointed by the various Provincial Governments. |

| *Clause.* | *Officers.* |
|---|---|
| 19 ... | (1) Mr. T. B. Dalal, Director (Cotton) Office of the Textile Commissioner.<br>(2) Mr. Thomas De Sa, Assistant Director (1) (Cotton), Office of the Textile Commissioner.<br>(3) Mr. A. N. Ramachandran, Assistant Director (1) (Cotton), Office of the Textile Commissioner.<br>(4) Each of the Licensing Authorities appointed by the various Provincial Governments. |

No. C. 1260—Co. 22-49-14.—In pursuance of clause 6 of the Cotton Control Order, 1949, I hereby direct that the following amendment shall be made in the General Permission No. 2 contained in the Textile Commissioner's Notification No. C. 695—Co. 22-49-6, dated the 7th November 1949.

In the said Notification in paragraph 2 for the words "Textile Commissioner" the words "The Textile Commissioner or the Director (Cotton) or an Assistant Director (Cotton) in the Office of the Textile Commissioner" shall be substituted.

T. P. BARAT,
*Textile Commissioner.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

## NOTIFICATION.

No. 10632 – C.B. 244-49-3, dated Bangalore, 13th February 1950.

His Highness the Maharaja Sri Jayachamaraja Wadiyar Bahadur read the following Proclamation at 10-15 A.M in the Durbar Hall at the Palace, Mysore, on the 26th January 1950 :

" WHEREAS the people of India, having solemnly resolved to constitute India into a Sovereign Democratic Republic, adopted, enacted and gave to themselves on the twenty-sixth day of November, 1949, in their Constituent Assembly the Constitution of India ;

And whereas it has been declared by the said Constitution that India, that is, Bharat, shall be a Union of States comprising within the Union the territories which were hitherto the Governors' Provinces, the Indian States and the Chief Commissioners' Provinces ;

And whereas this, the twenty-sixth day of January 1950, has been fixed for the commencement of the said Constitution ;

Now, therefore, it is hereby proclaimed that on and from this, the twenty-sixth day of January, 1950, India, that is, Bharat, shall be a Sovereign Democratic Republic, and the Union and its component units, the States, shall exercise all powers and functions of Government and administration in accordance with the provisions of the said Constitution."

By Order of His Highness the Maharaja,

K. SRINIVASAN,
*Chief Secretary.*

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# The Mysore Gazette

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EXTRAORDINARY

BANGALORE, THURSDAY, FEBRUARY 16, 1950.


## PART IV

### Section 1-C

### NOTIFICATIONS, RULES, ORDERS, ETC., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

## MYSORE PUBLIC SERVICE COMMISSION REGULATION, 1950.

No. L.D. 1088—Legis. 39-49-1, dated Bangalore, the 16th February 1950.

In exercise of the powers conferred by article 318 of the Constitution of India, the Rajpramukh of Mysore, His Highness the Maharaja, is pleased to make the following regulation :—

### PART I

#### PRELIMINARY

1. (1) This regulation may be called the Mysore Public Service Commission Regulation, 1950.

(2) It shall come into force at once.

2. In this regulation, unless there is anything repugnant in the subject or context—

(*a*) "Constitution" means the Constitution of India ;

(*b*) "Commission" means the Mysore Public Service Commission established under the Constitution ;

(c) "Member" means a Member of the Commission and includes the Chairman thereof.

## PART II

### COMPOSITION, CONDITIONS OF SERVICE, ETC., OF THE COMMISSION AND ITS STAFF.

**3.** The Commission shall consist of a Chairman and two other Members.

**4.** There shall be paid to the Chairman a salary calculated at the rate of one thousand and five hundred rupees per mensem and to each of the other Members a salary calculated at the rate of one thousand and two hundred rupees per mensem.

Provided that a Member, who on the date of entering on his duties as such was in the service of the Government of the State, shall be paid the salary and allowances to which he would otherwise be entitled from time to time in such service;

Provided further that a Chairman or any other Member who is a retired Government servant shall not be entitled to draw a salary in addition to his pension, more than the salary fixed in this clause for a Chairman or Member as the case may be.

**5.** (1) A Member who on the date of entering on his duties as such was in a service of or held a post under the Union or a State shall, until he retires from such service or post, continue to be governed by the leave rules applicable to him in such service or post and his service as Member shall count for leave in accordance with those rules. After such retirement, he shall be governed in respect of leave by sub-clause (2) of this clause as if he were a Member who had entered on his duties as such immediately after such retirement.

(2) A Member who on the date of entering on his duties as such was not in the service of the Union or a State may be granted leave as follows:—

(a) Leave on leave salary equivalent to full pay up to one-eleventh of the period spent on duty as a Member, subject to a maximum of three months at any one time and subject to a maximum leave salary of one thousand and five hundred rupees per mensem in the case of the Chairman

and one thousand and two hundred rupees per mensem in the case of any other Member.

(*b*) Leave on medical certificate on leave salary equivalent to half pay up to a total period of two months.

(*c*) Extraordinary leave without allowances, subject to a maximum of two months at any one time.

*Explanation.*—More than one kind of leave mentioned in this clause may be granted in combination at any one time.

Provided that a Member who enters on his duties as such immediately after his retirement from a service of or a post under, the Union or a State shall be entitled to carry forward the leave which remained to his credit at the time of such retirement up to a maximum of six months expressed in terms of leave on average pay and to take that leave, on such terms and on such conditions as were admissible under the rules in accordance with which it was earned, in combination with any or all of the kinds of leave mentioned in this clause.

**6.** A member shall be entitled to travelling allowance for journeys made by him in the performance of his functions at the rates, and subject to the conditions, specified in the Mysore Service Regulations as in force from time to time.

For the purposes of the Mysore Service Regulations, the Chairman of the Commission shall be the head of a department in respect of other Members of the Commission.

**7.** No pension shall attach to the office of a Member as such, but in the case of a Member who at the date of his appointment was in the service of the Union or a State the period of his service as Member shall, until he retires from such service, count for pension under the rules applicable to the service to which he belongs. After such retirement he shall be entitled to the salary specified in clause 4 as if he were a Member who had entered on his duties as such immediately after such retirement.

**8.** There shall be a Secretary to the Commission who shall be appointed by the Commission with the previous approval of the Rajpramukh.

**9.** (1) There shall be paid to the Secretary, a monthly salary calculated at the scale of Rs. 300—25—500.

(2) The initial salary of a person appointed as Secretary to the Commission shall be fixed in accordance with the provisions of Mysore Service Regulations for the time being in force, and the previous sanction of the Rajpramukh shall be necessary for fixing the initial salary of any such person otherwise than in accordance with those rules.

(3) The Commission shall not, without the previous sanction of the Rajpramukh grant any premature increment of pay to a person holding the post of Secretary.

**10.** Subject to the provisions of clause 9, the Secretary to the Commission shall, in the matter of his pay, allowances including travelling allowances, leave, leave salary, pensions and other conditions of service be governed by the Mysore Service Regulations and the Public Servants' Conduct Rules for the time being in force.

For the purpose of the above Regulation and rules the Chairman of the Commission shall be head of the department, provided that he may delegate such functions as he deems fit to any other Member.

**11.** (1) Subject to the provisions of clause 12, the Commission may in its discretion employ, in addition to the Secretary, such persons as it may deem necessary for the effective discharge of its functions and on such scales of pay as it may determine.

(2) The initial salary of any person so employed shall be fixed in accordance with the provisions of the Mysore Service Regulations for the time being in force and the previous sanction of the Rajpramukh shall be necessary for fixing the initial salary of any such person otherwise than in accordance with those Regulations.

(3) The conditions of service of persons employed by the Commission under this clause shall, save as expressly provided therein, be the same as those prescribed by the State Government in respect of Government servants holding corresponding appointments elsewhere than in the office of the Commission.

(4) The Chairman shall be the person competent to make appointments, promotions and transfers subject to the provisions of the Mysore Service Regulations and to sanction leave, travelling allowance and pension in

respect of all members of the staff of the Commission other than the Secretary.

**12.** The Commission may, and it is hereby empowered to, incur expenditure in any financial year up to an aggregate sum determined by the State Government from time to time,—

(*a*) for the employment of the persons whom it is authorised to employ under clause 11 ;

(*b*) towards contingencies, supplies and services ; and

(*c*) towards other expenses connected with its work including the travelling allowances of the members of the Commission, the Secretary, and other Members of its staff.

**13.** In respect of any matter for which special provision is not made by this regulation, the conditions of service of a person serving as a member of the Commission or of its staff shall be governed by the rules and orders applicable to such classes of Government Servants as shall be specified by the Rajpramukh.

**14.** Until the Commission appoints the Members of the staff under clauses 8 and 11, persons who immediately prior to the commencement of this Regulation were members of the staff of the office of the Public Service Commissioner in Mysore shall continue to be members of the staff of the Commission.

JAYA CHAMARAJA WADIYAR.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Legal Remembrancer and*
*Secretary to Government,*
*Law Department.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

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EXTRAORDINARY

BANGALORE, SATURDAY, FEBRUARY 18, 1950

## PART IV.

### Section 2-B

### NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS.

### NOTIFICATION.

No. R. 8423—L. R. 364-49-2, dated Bangalore, the 18th February 1950.

In exercise of the powers conferred by section 5 of the Mysore Land Revenue Code, 1888 (IV of 1888), His Highness the Maharaja is pleased to order that the territories of Mysore State shall consist of the existing eight districts of Mysore, Hassan, Chikmagalur, Shimoga, Chitaldrug, Tumkur, Kolar and Mandya, and a ninth district called Bangalore District with the city of Bangalore, as its Headquarters. The said Bangalore District shall consist of the existing taluks of Doddaballapur, Nelamangala, Hosakote, Devanahalli, Anekal, Kankanhalli, Ramanagaram, Channapatna, Magadi, Bangalore North and Bangalore South.

This order shall come into force at once.

By Order of His Highness the Maharaja,

SYED ABDUL ALEEM,
*Secretary to Government,*
*Revenue Department.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

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# The Mysore Gazette

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## PART IV

### Section 1-A

### BILLS INTRODUCED IN THE CENTRAL LEGISLATURE WHICH IF ENACTED WILL APPLY TO MYSORE AND THE REPORTS OF SELECT COMMITTEES, IF ANY, THEREON.

NOTIFICATION.

No. L.D. 1029—Legis. 30-49-6, dated Bangalore, 7th February 1950.

Ordered that the accompanying Road Transport Corporations Bill, 1949 (82 of 1949), the Army Bill, 1949 (83 of 1949), The Emblems and Names (Prevention of Improper Use) Bill, 1949 (84 of 1949) and the Air Force Bill, 1949 (85 of 1949) published in the *Gazette of India* dated December 31, 1949, be republished in the *Mysore Gazette* for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Legal Remembrancer and Secretary to Government, Law Department.*

GOVERNMENT OF INDIA

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

The following Bills were introduced in the Constituent Assembly of India (Legislative), on the 21st December, 1949 :—

A. BILL* No. 82 OF 1949.

*A Bill to provide for the incorporation and regulation of Road Transport Corporations.*

WHEREAS it is expedient to provide for the incorporation and regulation of Road Transport Corporations for the promotion of a co-ordinated system of road transport in India, and to make provisions for the purposes connected therewith ;

* The Governor-General has, in pursuance of sub-section (3) of section 37 of the Government of India Act, 1935, recommended to the Constituent Assembly of India (Legislative) the consideration of the Bill.

It is hereby enacted as follows :—

## CHAPTER I.

### PRELIMINARY.

1. *Short title, extent and commencement.*—(*1*) This Act may be called the Road Transport Corporations Act, 1949.

(*2*) It extends to all the Provinces of India except the Province of Delhi, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.

(*3*) It shall come into force in a Province or an Acceding State on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf for such Province or Acceding State, and different dates may be appointed for different Provinces or Acceding States.

2. *Definitions.*—(*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "ancillary service" means any subsidiary service which provides amenities or facilities to persons making use of any road transport service of a Corporation ;

(*b*) "Corporation" means a Road Transport Corporation established under section 3 ;

(*c*) "extended area" means any area or route to which the operation of any road transport service of a Corporation has been extended in the manner provided in section 19 ;

(*d*) "prescribed" means prescribed by rules made under this Act ;

(*e*) "road transport service" means a service carrying passengers or goods or both by road in vehicles for hire or reward ;

(*f*) "vehicle" means any mechanically propelled vehicle, used or capable of being used for the purpose of road transport, and includes a tramcar, a trolly-vehicle and a trailer ;

(*g*) words and expressions used but not defined in this Act and defined in the Motor Vehicles Act, 1939 (IV of 1939), have the meanings assigned to them in that Act.

(*2*) For the purposes of this Act, unless there is anything repugnant in the subject or context,—

(*a*) any references to the Provinces, the Provinces of India, or to any Province of India shall be construed as including a reference to the Acceding States ;

(*b*) any reference to the Provincial Government shall be construed as including a reference to the Government of an Acceding State ;

(*c*) any reference to the official Gazette shall be construed as including a reference to the official Gazette or other similar publication of the Acceding States ; and

(*d*) any reference to any enactment in force in the Provinces of India but not in force in an Acceding State shall be construed as including a reference to the corresponding law in force in that State.

## CHAPTER II.

### ROAD TRANSPORT CORPORATIONS.

3. *Establishment of Road Transport Corporations in the Provinces.*—The Provincial Government, having regard to—

(*a*) the advantages offered to the public, trade and industry by the development of road transport ;

(*b*) the desirability of co-ordinating any form of road transport with any other form of transport;

(*c*) the desirability of extending and improving the facilities for road transport in any area in such manner as to provide most efficiently and as economically as possible for the needs thereof and of preventing uneconomic competition among any forms of transport;

may, by notification in the official Gazette, establish a Road Transport Corporation for the whole or any part of the Province under such name as may be specified in the notification.

4. *Incorporation.*—Every Corporation shall be a body corporate by the name notified under section 3 having perpetual succession and a common seal, and shall by the said name sue and be sued.

5. *Constitution of Road Transport Corporations.*—(*1*) Subject to rules made under this Act, a Corporation shall consist of a Chairman and such number of other members as the Provincial Government may think fit to appoint.

(*2*) The Provincial Government may, if it so thinks fit, appoint one of the other members as the Vice-Chairman of the Corporation.

(*3*) Rules made under this Act shall provide for the representation both of the Central Government and of the Provincial Government concerned in the Corporation in such proportion as may be agreed to by both the Governments and of nomination by each Government of its own representatives therein.

(*4*) The term of office of, and the manner of filling casual vacancies among, members of the Corporation shall be such as may be prescribed.

6. *Disqualifications for being chosen as, or for being, a member of a Corporation.*—A person shall be disqualified for being chosen as, or for being, a member of a Corporation—

(*a*) if he is found to be a lunatic or a person of unsound mind; or

(*b*) if he has been adjudged insolvent; or

(*c*) if he has been convicted of an offence involving moral turpitude; or

(*d*) if he has, directly or indirectly, any interest in any subsisting contract made with, or in any work being done for, the Corporation except as a shareholder (other than a director) in an incorporated company, provided that where he is a shareholder he shall disclose to the Provincial Government the nature and extent of shares held by him in such company; or

(*e*) if he has any financial interest in any other road transport undertaking.

7. *Resignation of office by the Chairman or a member.*—The Chairman or any other member of a Corporation may resign his office by giving notice in writing to the Provincial Government and, on such resignation being accepted by that Government, shall be deemed to have vacated his office.

8. *Removal of Chairman and members from office.*—The Provincial Government may remove from office the Chairman or any other member of the Corporation who—

(*a*) is or becomes subject to any of the disqualifications mentioned in section 6; or

(*b*) in the opinion of the Provincial Government, has failed, or is unable, to carry out his duties so as to render his removal necessary; or

(*c*) is convicted of an offence involving moral turpitude; or

(*d*) without excuse sufficient in the opinion of the Provincial Government, is absent without the leave of the Corporation from more than four consecutive meetings of the Corporation.

9. *Vacancies amongst members or defect in the constitution not to invalidate acts or proceedings of a Corporation.*—No act or proceeding of a Corporation shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

10. *Temporary association of persons with a Corporation for particular purposes.*—(*1*) A Corporation may associate with itself for any particular purpose in such manner as may be determined by regulations made under this Act any persons whose assistance or advice it may desire.

(*2*) A person associated with it by the Corporation under sub-section (*1*) for any purpose shall have a right to take part in the discussions of the Corporation relevant to that purpose, but shall not have a right to vote at a meeting of the Corporation, and shall not be a member for any other purpose.

11. *Meetings of Corporations.*—(*1*) A Corporation shall meet at such times and places and shall, subject to the provisions of sub-sections (*2*) and (*3*) observe such rules of procedure in regard to transaction of business at its meetings as may be provided by regulations made under this Act.

(*2*) The person to preside at a meeting of a Corporation shall be the Chairman thereof, or in his absence from any meeting, the Vice-Chairman, if any, or in the absence of both the Chairman and the Vice-Chairman, such member as may be chosen by the members present from among themselves to preside.

(*3*) All questions at a meeting of a Corporation shall be decided by a majority of votes of the members present, and in the case of equality of votes, the Chairman or, in his absence, any other person presiding shall have a second or casting vote.

12. *Authentication of orders and other instruments of a Corporation.*—All orders and decisions of a Corporation shall be authenticated by the signature of the Chairman or any other member authorised by the Corporation in this behalf, and all other instruments issued by a Corporation shall be authenticated by the signature of the Chief Executive Officer or any other officer of the Corporation authorised in like manner in this behalf.

13. *Officers and servants of the Corporation.*—(*1*) Every Corporation shall have a Chief Executive Officer and a Chief Accounts Officer appointed by the Provincial Government.

(*2*) A Corporation may appoint such other officers and servants as it considers necessary for the efficient performance of its functions.

(*3*) The conditions of appointment and service and the scales of pay of the officers and servants of a Corporation shall—

(*a*) as respects the Chief Executive Officer and the Chief Accounts Officer be such as may be prescribed, and

(*b*) as respects the other officers and servants be such as may, subject to the provisions of section 33, be determined by regulations made under this Act.

14. *The Chief Executive Officer and the Chief Accounts Officer.*—(*1*) The Chief Executive Officer shall be the executive head of the Corporation and all other officers and servants of the Corporation shall be subordinate to him.

(*2*) The Chief Accounts Officer shall have the right to record his views on every proposal involving expenditure from the fund of the Corporation prior to the consideration of such proposal by the Corporation.

15. *General disqualification of all officers and servants.*—No person who has directly or indirectly, by himself or his partner or agent, any share or interest in any contract, by or on behalf of a Corporation, or in any other road transport undertaking shall become or remain an officer or servant of the Corporation.

16. *Appointment of Advisory Council.*—On the recommendation of a Corporation, the Provincial Government may, by notification in the official Gazette, constitute an Advisory Council consisting of such number of persons, on such terms, and for the purpose of advising the Corporation on such matters, as may be specified in that notification.

## CHAPTER III.

### Powers and Duties of Corporation.

17. *General duty of Corporation.*—Subject to the provisions of any law for the time being in force in a Province, it shall be the general duty of a Corporation so to exercise its powers as progressively to provide, or secure or promote the provision of, an efficient, adequate, economical and properly co-ordinated system of road transport services in the Province or part of the Province for which it is established and in any extended area :

Provided that nothing in this section shall be construed as imposing on a Corporation, either directly or indirectly, any form of duty or liability enforceable by proceedings before any Court or tribunal to which it would not otherwise be subject.

18. *Powers of Corporation.*—(*1*) Subject to the provisions of any law for the time being in force in a Province and of this Act, a Corporation shall have power—

(*a*) to operate road transport services in the Province and in any extended area ;

(*b*) to provide for any ancillary service ;

(*c*) to provide for its employees suitable conditions of service including establishment of Provident Fund, living accommodation, places for rest and recreation and other amenities.

(*2*) Subject to the provisions of this Act, the powers conferred by sub-section (*1*) shall include power—

(*a*) to manufacture, purchase, maintain and repair rolling stock, vehicles, appliances, plant, equipment or any other thing required for the purpose of any of the activities of the Corporation referred to in sub-section (*1*).

*Explanation.*—In this clause, the expression "manufacture" does not include the construction of the complete unit of a motor vehicle except for purposes of experiment or research ;

(*b*) to acquire and hold such property, both movable and immovable as the Corporation may deem necessary for the purpose of any of the said activities, and to lease, sell or otherwise transfer any property held by it ;

(*c*) to prepare schemes for the acquisition of, and to acquire, either by agreement or compulsorily in accordance with the law of acquisition for the time being in force in the Province concerned and with such procedure as may be prescribed, whether absolutely or for any period, the whole or any part of any undertaking of any other person to the extent to which the activities thereof consist of the operation of road transport services in that Province or in any extended area ;

(*d*) to purchase by agreement or to take on lease or under any form of tenancy any land and to erect thereon such buildings as may be necessary for the purpose of carrying on its undertaking ;

(*e*) to authorise the disposal of scrap vehicles, old tyres, used oils, or any other stores of scrap value ;

(*f*) to enter into and perform all such contracts as may be necessary for the performance of its duties and the exercise of its powers under the Act ;

(*g*) to purchase vehicles of such type as may be suitable for use in the road transport services operated by the Corporation;

(*h*) to purchase or otherwise secure by agreement vehicles, garages, sheds, office buildings, depots, land, workshops, equipment, tools, accessories to and spare parts for vehicles, or any other article owned or possessed by the owner of any other undertaking for use thereof by the Corporation for the purposes of its undertaking;

(*i*) to do anything for the purpose of advancing the skill of persons employed by the Corporation or the efficiency of the equipment of the Corporation or of the manner in which that equipment is operated, including the provision by the Corporation, and the assistance by the Corporation to others for the provision of facilities for training, education and research;

(*j*) to enter into and carry out agreements with any person carrying on business as a carrier of passengers or goods providing for the carriage of passengers or goods on behalf of the Corporation by that other person at a through fare or freight;

(*k*) with the prior approval of the Provincial Government to do all other things to facilitate the proper carrying on of the business of the Corporation.

(*3*) Nothing in this section shall be construed as authorising a Corporation, except with the previous permission of the Provincial Government—

(*i*) to manufacture or maintain anything which is not required directly or indirectly for use for the purpose of the undertaking of the Corporation or to repair, store, or provide any service for, any vehicle which does not belong to the Corporation or is not used directly or indirectly for the purpose of its undertaking;

(*ii*) to purchase any vehicle for the purpose of sale to another person;

(*iii*) to sell or supply to any person lubricants, spare parts, or equipment for or accessories to, vehicles;

(*iv*) to let vehicles on hire for the carriage of passengers or goods except as expressly provided by or under this Act.

(*4*) Except as otherwise provided by this Act nothing in the foregoing provisions shall be construed as authorising the Corporation to disregard any law for the time being in force.

(*5*) The provisions of this section shall not be construed as limiting any power of a Corporation conferred by or under any subsequent provision of this Act.

19. *Extension of the operation of the road transport service of a Corporation to areas within another Province or within an Acceding State.*—(*1*) If a Corporation considers it to be expedient in the public interest to extend the operation of any of its road transport services to any route or area situated within another Province, it may, with the permission of the Provincial Government, negotiate with the Government of that Province regarding the proposed extension.

(*2*) If the Government of the other Province approves the proposed extension, the Corporation shall prepare a scheme for the purpose and forward the same to that Government for its consent, and after such consent has been received, the Corporation may, with the previous approval of the Provincial Government, sanction the scheme.

(*3*) After the scheme has been so sanctioned, it shall be competent for the Corporation to extend the operation of its road transport service to such route

or area and when the operation of such service is so extended, the Corporation shall operate the service on that route or in that area subject to the provisions of any law in force in the Province within which such route or area is situated.

(*4*) The Corporation may, from time to time, alter or extend the scheme sanctioned under sub-section (*2*) by a supplementary scheme prepared and sanctioned in the manner provided in the foregoing provisions of this section.

20. *Carriage of mails.*—Notwithstanding anything contained in the Motor Vehicles Act, 1939 (IV of 1939), a Corporation shall, if so required by the Central Government, carry mails at such rates and on such terms and conditions as may be specified in this behalf by the Provincial Government in consultation with the Central Government.

## CHAPTER IV.

### FINANCE, ACCOUNTS AND AUDIT.

21. *General principle of Corporation's finance.*—It shall be the general principle of a Corporation that in carrying on its undertaking it shall act on business principles.

22. *Capital of the Corporation.*—(*1*) The Central Government and the Provincial Government may provide to a Corporation established by the Provincial Government, in such proportion as may be agreed to by both the Governments, any capital that may be required by the Corporation for the purpose of carrying on the undertaking or for purposes connected therewith on such terms and conditions, not inconsistent with the provisions of this Act, as the Provincial Government may, with the previous approval of the Central Government, determine.

(*2*) Where the capital of a Corporation is not provided under sub-section (*1*), the Corporation may raise, by the issue of shares, such capital as may be authorised in this behalf by the Provincial Government.

(*3*) The authorised capital of the Corporation shall be divided into such number of shares as the Provincial Government may determine; and the number of shares which shall be subscribed by the Provincial Government, the Central Government and other parties shall also be determined by the Provincial Government in consultation with the Central Government.

(*4*) The allotment of shares to other parties mentioned in sub-section (*3*) shall be made by the Corporation in such manner as may be prescribed.

(*5*) The shares of the Corporation shall not be transferable except in accordance with the rules made under this Act.

(*6*) The Corporation may at any time, with the previous approval of the Provincial Government, redeem the shares issued to the other parties under sub-section (*4*) in such manner as may be prescribed.

23. *Additional capital of the Corporation.*—If, after the issue of shares under section 22, a Corporation requires any further capital, the Corporation may, with the previous sanction of the Provincial Government, raise such additional capital by the issue of new shares and the provisions of sub-sections (*2*), (*3*), (*4*), (*5*), and (*6*) of the said section shall apply to such shares.

24. *Guarantee by the Provincial Government.*—The shares of a Corporation shall be guaranteed by the Provincial Government as to the payment of the principal and the payment of the annual dividend at such minimum rate as may be fixed by the Provincial Government by notification published in the official Gazette at the time of issuing the shares.

25. *Borrowing powers.*—A Corporation may, with the previous approval of the Provincial Government, borrow money in the open market or otherwise for the purpose of raising its working capital.

26. *Fund of the Corporation.*—(*1*) Every Corporation shall have its own fund and all receipts of the Corporation shall be carried thereto and all payments by the Corporation shall be made therefrom.

(*2*) Except as otherwise directed by the Provincial Government, all moneys belonging to that fund shall be deposited in the Reserve Bank of India or with the agents of the Reserve Bank of India, or invested in such securities as may be approved by the Provincial Government.

27. *Payment of interest and dividend.*—(*1*) Where the capital of a Corporation is provided by the Central Government and the Provincial Government under sub-section (*1*) of section 22, the Corporation shall pay interest on such capital at such rate as may, from time to time, be fixed by the Provincial Government in consultation with the Central Government and such interest shall be deemed to be a part of the expenditure of the Corporation.

(*2*) Where the Corporation raises its capital by issue of shares, it shall pay dividend on such shares on such rate as may, from time to time, be fixed by the Corporation, subject to any general limitations which may have been imposed by the Provincial Government in consultation with the Central Government, and such dividend shall be deemed to be a part of the expenditure of the Corporation.

28. *Provision for depreciation and reserve and other funds.*—(*1*) A Corporation shall make such provisions for depreciation and for reserve and other funds as the Provincial Government may, from time to time, direct.

(*2*) The management of the said funds, the sums to be carried from time to time to the credit thereof and the application of the moneys comprised therein shall be determined by the Corporation :

Provided that no fund shall be utilised for any purpose other than for which it was created without the previous approval of the Provincial Government.

29. *Disposal of net profits.*—After making provision for payment of interest and dividend under section 27 and for depreciation, reserve and other funds under section 28, a Corporation may utilise its net annual profits for the provision of amenities to the passengers using the road transport services, welfare of labour employed by the Corporation, road development, and for such other purposes as may be prescribed with the previous approval of the Central Government.

30. *Power of the Corporation to spend.*—A Corporation shall have power to spend such sums as it thinks fit on objects authorised under this Act or under any other law and such sums shall be treated as common expenditure payable out of the fund of the Corporation.

31. *Budget.*—(*1*) Every Corporation shall, by such date in each year as may be prescribed, prepare and submit to the Provincial Government for approval a budget for the next financial year showing the estimated receipts and expenditure during that financial year in such form as may be prescribed.

(*2*) Subject to the provisions of sub-sections (*3*) and (*4*), no sum shall be expended by or on behalf of a Corporation unless the expenditure of the same is covered by a current budget grant approved by the Provincial Government.

(3) A Corporation may sanction any re-appropriation within the grant from one head of the expenditure to another or from a provision made for one scheme to that in respect of another, subject to the condition that the aggregate budget grant is not exceeded.

(4) A Corporation may, within such limits and subject to such conditions as may be prescribed, incur expenditure in excess of the limit provided in the budget approved by the Provincial Government under any head of expenditure or in connection with any particular scheme.

32. *Accounts and audit.*—(1) Every Corporation shall cause to be maintained in such books of account and other books in relation to its accounts in such form and in such manner as may be prescribed.

(2) The accounts of a Corporation shall be audited by the auditor appointed by the Provincial Government at such times and in such manner as may be prescribed.

(3) As soon as the accounts of a Corporation have been audited, the Corporation shall send a copy thereof together with a copy of the report of the auditor thereon to the Central Government and the Provincial Government.

## CHAPTER V.

### MISCELLANEOUS.

33. *Directions by the Provincial Government.*—(1) The Provincial Government may, after consultation with a Corporation established by such Government, give to the Corporation general instructions to be followed by the Corporation, and such instructions may include directions relating to the conditions of service and training of its employees, wages to be paid to its workers, reserves to be maintained by it and disposal of its profits or stocks.

(2) In the exercise of its powers and performance of its duties under this Act, the Corporation shall not depart from any general instructions issued under sub-section (1) except with the previous permission of the Provincial Government.

34. *Returns and Reports.*—(1) Every Corporation shall furnish to the Provincial Government such returns, statistics, accounts and other information with respect to its property or activities or in regard to any proposed scheme as the Provincial Government may from time to time require.

(2) Without prejudice to the provisions of sub-section (1), a Corporation shall, as soon as possible after the end of each financial year, submit to the Central and the Provincial Governments a report on the exercise and performance by it of its powers and duties under this Act and under any other law during that year and on its policy and programme.

35. *Power to order inquiries.*—(1) The Provincial Government, with a view to satisfy itself that the powers and duties of a Corporation established by that Government are being exercised and performed properly, may at any time, with the previous approval of the Central Government, appoint any officer or officers to make inquiries into all or any of the activities of the Corporation and to report to the Provincial Government the result of such inquiries.

(2) The Corporation shall give to the officer or officers so appointed all facilities for the proper conduct of the inquiries and shall produce before, or furnish to, the officer or officers any document, account or information in the possession of the Corporation which such officer or officers demand for the purposes of the inquiries.

36. *Power to control a part of the undertaking of a Corporation.*—(*1*) If no receipt of the report of any inquiry held under section 35 or otherwise, the Provincial Government is satisfied that it is necessary so to do in the public interest, the Provincial Government may, with the previous approval of the Central Government, by notification in the official Gazette, authorise any person to take over from a Corporation established by that Government, and so long as that notification is in force, to administer in accordance with such directions as may be issued from time to time by the Provincial Government such part of the undertaking, of the Corporation as may be specified in the notification, and any person so authorised may, for the purpose of so administering the said part of the undertaking, exercise all or any of the powers of the Corporation or of any officer of the Corporation under this Act or under any other law, issue such directions as he thinks fit to the officers or servants of the Corporation and employ any outside agency.

(*2*) The Provincial Government may by such notification direct that all charges and expenses incurred by the person so authorised together with such remuneration as the Provincial Government may allow from time to time to such person shall be paid within such time as may be fixed by the Provincial Government from the fund of the Corporation, and if the expenses are not so paid, the Provincial Government may make an order directing the person having the custody of that fund to pay to the person so authorised such expenses in priority to any other charges against such fund and he shall, so far as the funds to the credit of the Corporation admit, comply with the order of the Provincial Government.

37. *Power to supersede a Corporation.*—(*1*) If the Provincial Government is of opinion that a Corporation established by that Government is unable to perform, or has persistently made default in the performance of the duties imposed on it by or under the provisions of this Act or of any other law, or has exceeded or abused its powers, the Provincial Government may, with the previous approval of the Central Government, by notification in the official Gazette, supersede the Corporation for such period as may be specified in the notification :

Provided that before issuing a notification under this sub-section the Provincial Government shall give a reasonable time to the Corporation to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Corporation.

(*2*) Upon the publication of a notification under sub-section (*1*) superseding a Corporation, the following consequences shall ensue :—

(*a*) all the members of the Corporation shall, as from the date of supersession, vacate their officers as such members ;

(*b*) all the powers and duties which may, by or under the provisions of this Act or of any other law, be exercised or performed by or on behalf of the Corporation shall, during the period of supersession, be exercised and performed by such person or persons as the Provincial Government may direct ;

(*c*) all property vested in the Corporation shall, during the period of supersession, vest in the Provincial Government.

(*3*) On the expiration of the period of supersession specified in the notification issued under sub-section (*1*), the Provincial Government may—

(*a*) extend the period of supersession for such further term as it may consider necessary ; or

(*b*) reconstitute the Corporation in the manner provided in section 5 and in such case any persons who vacated their offices under clause (*a*) of sub-section (*2*) shall not be deemed disqualified for nomination.

38. *Liquidation of a Corporation.*—(*1*) No provision of any law relating to the winding up of companies or corporations shall apply to a Corporation, and a Corporation shall not be placed in liquidation save by order made, with the previous approval of the Central Government, by the Provincial Government by which it is established and in such manner as the Provincial Government may direct.

(*2*) In the event of a Corporation being placed in liquidation, the assets of the Corporation, after meeting the liabilities, if any, shall be divided among the Central and the Provincial Government and such other parties, if any, as may have subscribed to the capital in proportion to the contribution made by each of them to the total capital of the Corporation.

39. *Compensation for acquisition of road transport undertakings.*—Whenever a Corporation acquires under this Act the whole or any part of any undertaking, there shall be paid by the Corporation compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(*a*) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement ;

(*b*) where no such agreement can be reached, the amount shall, subject to rules made under this Act, be determined by an arbitral tribunal consisting of one nominee of the Corporation, one nominee of the person to be compensated, and one nominee of the Provincial Government who shall be the chairman of the tribunal ;

(*c*) an appeal shall lie to the District Judge against the decision of the tribunal and the order of the District Judge on such appeal shall be final.

40. *Application of the provisions of the Motor Vehicles Act, 1939, or any rules made thereunder, to vehicles and employees of a Corporation.*—The Motor Vehicles Act, 1939 (in this section referred to as the said Act) shall have effect subject to the following provisions, namely :—

(*a*) The Provincial Government may, by notification in the official Gazette, authorise, subject to such terms and conditions, if any, as it may think fit to impose, any person to exercise and perform to the exclusion of the Licensing Authority, Registering Authority, Motor Vehicles Inspector, Traffic Inspector, Regional Transport Authority or Provincial Transport Authority, as the case may be, and without following the procedure laid down for the purpose in the said Act, all or such of the powers, functions and duties of any Licensing Authority, any Registering Authority, any Motor Vehicles Inspector, any Traffic Inspector, Regional Transport Authority or the Provincial Transport Authority under the said Act or under any rules made thereunder in relation to the motor vehicles of a Corporation established by that Government and the drivers and conductors of those vehicles, as may be specified in the notification.

(*b*) The Provincial Government may, if it so thinks necessary, by order cancel, suspend or vary the conditions of, any state carriage, contract carriage or public carriers' permit which has been granted or countersigned under Chapter IV of the said Act by any Regional Transport Authority in the Province or by the Provincial Transport Authority and is valid within the whole or any part of the Province, and any order so passed shall be final.

(*c*) If the Provincial Government, by order in writing, so directs, any Regional Transport Authority within the Province, or the Provincial Transport Authority, shall not grant, countersign or renew any permit under Chapter IV of the said Act other than a private carrier's permit.

(*d*) The Provincial Government may, by order in writing, exempt the motor vehicles of a Corporation established by that Government or its employees from the provisions of the said Act or of any rules made thereunder relating to the carrying of certificates of registration and fitness and from all or any of the provisions of Chapter IV of the said Act.

41. *Members, officers and servants of a Corporation to be public servants.*— All members of a Corporation, and all officers and servants of a Corporation, whether appointed by the Provincial Government or the Corporation, shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act or of any other law, to be public servants within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

42. *Power to make rules.*—(*1*) The Provincial Government may, by notification in the official Gazette, make rules to give effect to the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the conditions and manner of appointment of members of a Corporation, the representation in the Corporation of the Central and the Provincial Government and generally all matters relating to the constitution of the Corporation ;

(*b*) the term of office of, the manner of filling casual vacancies among, members of the Corporation ;

(*c*) the conditions of appointment and service and the scales of pay of the Chief Executive Officer and the Chief Accounts Officer of the Corporation ;

(*d*) the number and term of office of, the allowances to be paid to, the procedure to be followed by, and the manner of filling casual vacancies among, members of the Advisory Council ;

(*e*) the procedure for compulsory acquisition by the Corporation of the whole or any part of the undertaking ;

(*f*) the payment of due compensation to owners of road transport services the operation of which is acquired by the Corporation ;

(*g*) the manner in which the shares of the Corporation shall be allotted, transferred or redeemed ;

(*h*) the manner in which the net profits of the Corporation shall be utilised ;

(*i*) the date by which, and the form in which, the budget shall be prepared and submitted in each year under sub-section (*1*) of section 31 ;

(*j*) the forms and the manner in which the accounts of the Corporation shall be maintained ;

(*k*) the time at which, and the manner in which, the accounts of the Corporation shall be audited ;

(*l*) the form in which the returns, statistics or reports shall be submitted under section 34 ;

(*m*) the procedure to be followed in determination of compensation by an arbitral tribunal under section 39 ;

(*n*) any other matter which has to be, or may be, prescribed.

43. *Power to make regulations.*—(*1*) A Corporation may, with the previous sanction of the Provincial Government, make regulations, not inconsistent with this Act and the rules made thereunder, for the administration of the affairs of the Corporation.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

(*a*) the manner in which, and the purposes for which, persons may be associated with the Corporation under section 10 ;

(*b*) the time and place of meetings of the Corporation and the procedure to be followed in regard to transaction of business at such meetings ;

(*c*) the conditions of appointment and service and the scales of pay of officers and servants of the Corporation other than the Chief Executive Officer and the Chief Accounts Officer.

44. *Repeal of Act XXXII of 1948.*—The Road Transport Corporation Act, 1948 (XXXII of 1948) is hereby repealed.

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## STATEMENT OF OBJECTS AND REASONS

The Road Transport Corporations Act, 1948 (XXXII of 1948) was enacted with a view to enable the Provincial Governments, who may so desire, to establish Road Transport Corporations. This Act has been found defective because the provisions of sections 3(*2*), 4 and 5 of the Act, in so far as they require certain provisions to be made by a Provincial law, are *ultra vires* of the Government of India Act, 1935, as adapted. Under the latter Act, the power to legislate in respect of trade and commerce is given to the Provincial Legislatures and the power to legislate for the incorporation of trading corporations is given to the Central Legislature. The creation of statutory transport corporations has been held as amounting to incorporation of trading corporations and, as such, *ultra vires* of the Provincial Legislature. In order to remove the above-mentioned legal flaw, it is proposed to replace the existing Act, by a comprehensive Act, enabling such of the Provincial Governments, who may so desire, to set up transport corporations with the object of providing efficient, adequate, economical and properly co-ordinated system of road transport services.

K. SANTHANAM.

NEW DELHI ;
*The 13th December*, 1949.

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### A. BILL No. 83 OF 1949

*A Bill to consolidate and amend the law relating to the government of the regular Army.*

WHEREAS it is expedient to consolidate and amend the law relating to the government of the regular Army ;

It is hereby enacted as follows :—

## CHAPTER I

### PRELIMINARY

1. *Short title and commencement.*—(*1*) This Act may be called the Army Act, 1949.

(*2*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. *Persons subject to this Act.*—(*1*) The following persons shall be subject to this Act wherever they may be, namely:—

(*a*) officers, junior commissioned officers and warrant officers of the regular Army;

(*b*) persons enrolled under this Act,

(*c*) persons belonging to the Indian Reserve Forces;

(*d*) persons belonging to the Indian Supplementary Reserve Forces when called out for service or when carrying out the annual test;

(*e*) officers of the Territorial Army, when doing duty as such officers, and enrolled persons of the said Army when called out or embodied or attached to any regular forces, subject to such adaptations and modifications as may be made in the application of this Act to such persons under sub-section (*1*) of section 9 of the Territorial Army Act, 1948 (LVI of 1948);

(*f*) persons holding commissions in the Army in India Reserve of Officers, when ordered on any duty or service for which they are liable as members of such reserve forces;

(*g*) officers appointed to the Indian Regular Reserve of Officers, when ordered on any duty or service for which they are liable as members of such reserve forces;

(*h*) persons belonging to the land forces of an Acceding State, when such persons are attached to any body of the regular Army for service, or when the whole or a part of the said forces is acting with any body of the regular Army or is placed at the disposal of the Central Government in pursuance of a notification under section 5;

(*i*) persons not otherwise subject to military law who, on active service, in camp, on the march or at any frontier post specified by the Central Government by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of, the regular Army.

(*2*) Every person subject to this Act shall remain so subject until duly retired, discharged, released, removed, dismissed or cashiered from the service.

3. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(*i*) "active service", as applied to a person subject to this Act, means the time during which such person—

(*a*) is attached to, or forms part of, a force which is engaged in operations against an enemy, or

(*b*) is engaged in military operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy, or

(*c*) is in military occupation of a foreign country;

(*ii*) "civil offence" means an offence which is triable by a criminal court;

(*iii*) "Commander-in-Chief" means the officer commanding-in-chief the regular Army;

(*iv*) "commanding officer", when used in any provision of this Act, with reference to any separate portion of the regular Army or to any department thereof, means the officer whose duty it is under the regulations

of the regular Army, or in the absence of any such regulations, by the custom of the service, to discharge with respect to that portion of the regular Army or that department, as the case may be, the functions of a commanding officer in regard to matters of the description referred to in that provision ;

(*v*) "corps" means any separate body of persons subject to this Act, which is prescribed as a crops for the purposes of all or any of the provisions of this Act ;

(*vi*) "court-martial" means a court-martial held under this Act ;

(*vii*) "criminal court" means a court of ordinary criminal justice in any part of India, other than the State of Jammu and Kashmir ;

(*viii*) "department" includes any division or branch of a department ;

(*ix*) "enemy" includes all armed mutineers, armed rebels, armed rioters, pirates and any person in arms against whom it is the duty of any person subject to military law to act ;

(*x*) "the Forces" means the regular Army, Navy and Air Force or any part of any one or more of them ;

(*xi*) "junior commissioned officer" means a person commissioned, gazetted or in pay as a junior commissioned officer in the regular Army and includes—

(*a*) a person holding a Viceroy's commission granted before the 15th day of August, 1947, or a junior commission in the Indian Land Forces or in the Indian Reserve Forces ; and

(*b*) a person holding a Viceroy's commission granted before the 15th day of August, 1947, or a junior commission in the Indian Supplementary Reserve Forces, or a junior commission in the Territorial Army, or a junior or equivalent commission in the land forces of an Acceding State, who is for the time being subject to this Act ;

(*xii*) "military custody" means the arrest or confinement of a person, according to the usages of the service and includes naval or air force custody ;

(*xiii*) "military reward" includes any gratuity or annuity for long service or good conduct, any good conduct pay, good service pay or pension, and any other military pecuniary reward ;

(*xiv*) "non-commissioned officer" means a non-commissioned officer or an acting non-commissioned officer of the regular Army or of the Indian Reserve Forces, and includes a non-commissioned officer or acting non-commissioned officer of the Indian Supplementary Reserve Forces or of the Territorial Army or of the land forces of an Acceding State, who is for the time being subject to this Act ;

(*xv*) "notification" means a notification published in the official Gazette ;

(*xvi*) "offence" means any act or omission punishable under this Act and includes a civil offence as hereinbefore defined ;

(*xvii*) "officer" means a person commissioned, gazetted or in pay as an officer in the regular Army, and includes—

(*a*) an officer holding His Majesty's commission in the Indian Land Forces ;

(*b*) a citizen of India holding His Majesty's commission in His Majesty's Land Forces ;

(*c*) an officer of the Indian Reserve Forces ;

(*d*) an officer holding a commission in the Territorial Army granted by the Governor-General with designation of rank corresponding to that of an officer of the regular Army who is for the time being subject to this Act;

(*e*) an officer of the Army in India Reserve of Officers who is for the time being subject to this Act;

(*f*) an officer of the Indian Regular Reserve of Officers who is for the time being subject to this Act;

(*g*) an officer of the land forces of any Acceding State who is for the time being subject to this Act;

(*h*) in relation to a person subject to this Act when serving under such conditions as may be prescribed, an officer of the Navy or Air Force;

but does not include a junior commissioned officer, warrant officer, petty officer or non-commissioned officer;

(*xviii*) "prescribed" means prescribed by rules made under this Act;

(*xix*) "provost-marshal" includes any of his deputies or assistants or any other person legally exercising authority under him or on his behalf;

(*xx*) "regular Army" means officers, junior commissioned officers, warrant officers, non-commissioned officers and other enrolled persons who, by their commission, warrant, terms of enrolment or otherwise, are liable to render continuously for a term military service to the Union in any part of the world, including persons belonging to the Reserve Forces and the Territorial Army when called out on permanent service;

(*xxi*) "regulation" includes a regulation made under this Act;

(*xxii*) "superior officer", when used in relation to a person subject to this Act, includes a junior commissioned officer, warrant officer and a non-commissioned officer, and, as regards persons placed under his orders, an officer, warrant officer, petty officer and non-commissioned officer of the Navy or Air Force;

(*xxiii*) "warrant officer" means a person appointed, gazetted or in pay as a warrant officer of the regular Army or of the Indian Reserve Forces, and includes a warrant officer of the Indian Supplementary Reserve Forces or of the Territorial Army or of the land forces of an Acceding State who is for the time being subject to this Act;

(*xxiv*) all words, and expressions used but not defined in this Act and defined in the Indian Penal Code (Act XLV of 1860) shall have the meanings assigned to them in that Code.

## CHAPTER II

### Special Provisions for the Application of Act in certain cases

4. *Application of Act to certain forces under Central Government.*—(*1*) The Central Government may, by notification, apply all or any of the provisions of this Act to any force raised and maintained in India under the authority of that Government, and suspend the operation of any other enactment for the time being applicable to the said force.

(*2*) The provisions of this Act so applied shall have effect in respect of persons belonging to the said force as they have effect in respect of persons subject to this Act holding in the regular Army the same or equivalent rank as the aforesaid persons hold for the time being in the said force.

(*3*) The provisions of this Act so applied shall also have effect in respect of persons who are employed by or are in the service of or are followers of or accompany any portion of the said force as they have effect in respect of persons subject to this Act under clause (*i*) of section 2.

(*4*) While any of the provisions of this Act apply to the said force, the Central Government may, by notification, direct by what authority any jurisdiction, powers or duties incident to the operation of these provisions shall be exercised or performed in respect of the said force.

5. *Application of Act to forces of Acceding States.*—(*1*) The Central Government may, by notification, direct that any person or persons belonging to the land forces of any Acceding State shall be attached to any body of the regular Army or that the whole or a part of the said forces shall act with any body of the regular Army, or shall be placed at the disposal of the Central Government, and thereupon the persons so attached and members of the said force shall become subject to this Act.

(*2*) The relative rank of officers, junior commissioned officers, warrant officers and non-commissioned officers of such forces and of the regular Army shall be such as may be determined by the Central Government or by such other authority as may be prescribed.

6. *Special provision as to rank in certain cases.*—(*1*) The Central Government may by notification direct that any persons or class of persons subject to this Act under clause (*i*) of section 2 shall be so subject as officers, junior commissioned officers, warrant officers or non-commissioned officers and may authorise any officer to give a like direction and to cancel such direction.

(*2*) All persons subject to this Act other than officers, junior commissioned officers, warrant officers and non-commissioned officers shall, if they are not persons in respect of whom a notification or direction under sub-section (*1*) is in force, be deemed to be of a rank inferior to that of a non-commissioned officer.

7. *Commanding officer of persons subject to military law under clause* (*i*) *of section* 2.—(*1*) Every person subject to this Act under clause (*i*) of section 2 shall, for the purposes of this Act, be deemed to be under the commanding officer of the corps, department or detachment, if any, to which he is attached, and, if he is not so attached, under the command of any officer who may for the time being be named as his commanding officer by the officer commanding the force with which such person for the time being is serving, or any other prescribed officer, or, if no such officer is named or prescribed, under the command of the said officer commanding the force.

(*2*) An officer commanding a force shall not place a person subject to this Act under clause (*i*) of section 2 under the command of an officer of rank inferior to that of such person, if there is present at the place where such person is any officer of a higher rank under whose command he can be placed.

8. *Officers exercising powers in certain cases.*—(*1*) Whenever persons subject to this Act are serving under an officer commanding any military organisation, not in this section specifically named and being in the opinion of the Central Government not less than a brigade, that Government may prescribe the officer by whom the powers, which under this Act may be exercised by officers commanding armies, army corps, divisions and brigades, shall, as regards such persons, be exercised.

(*2*) The Central Government may confer such powers, either absolutely or subject to such restrictions, reservations, exceptions and conditions, as it may think fit.

9. *Power to declare persons to be on active service.*—Notwithstanding anything contained in clause (*i*) of section 3, the Central Government may, by notification, declare that any persons or class of persons subject to this Act shall, with reference to any area in which they may be serving or with reference to any provision of this Act or of any other law for the time being in force, be deemed to be on active service within the meaning of this Act.

## CHAPTER III

### Commission, Appointment and Enrolment

10. *Commission and Appointment.*—The Governor-General may grant, to such person as he thinks fit, a commission as an officer, or as a junior commissioned officer or appoint any person as a warrant officer of the regular Army.

11. *Ineligibility of aliens for enrolment.*—No person who is not a citizen of India shall, except with the consent of the Central Gevernment signified in writing, be enrolled in the regular Army:

Provided that nothing contained in this section shall bar the enrolment of the subjects of Nepal in the regular Army.

12. *Procedure before enrolling officer.*—Upon the appearance before the prescribed enrolling officer of any person desirous of being enrolled, the enrolling officer shall read and explain to him, or cause to be read and explained to him in his presence, the conditions of the service for which he is to be enrolled; and shall put to him the questions set forth in the prescribed form of enrolment, and shall, after having cautioned him that if he makes a false answer to any such question he will be liable to punishment under this Act, record or cause to be recorded his answer to each such question.

13. *Mode of enrolment.*—If, after complying with the provisions of section 12, the enrolling officer is satisfied that the person desirous of being enrolled fully understands the questions put to him and consents to the conditions of service, and if such officer perceives no impediment, he shall sign and shall also cause such person to sign the enrolment paper, and such person shall thereupon be deemed to be enrolled.

14. *Validity of enrolment.*—Every person who has for the space of three months been in receipt of pay as a person enrolled under this Act and been borne on the rolls of any corps or department shall be deemed to have been duly enrolled, and shall not be entitled to claim his discharge on the ground of any irregularity or illegality in his enrolment or on any other ground whatsoever; and if any person, in receipt of such pay and borne on the rolls as aforesaid, claims his discharge before the expiry of three months from his enrolment, no such irregularity or illegality or other ground shall, until he is discharged in pursuance of his claim, affect his position as an enrolled person under this Act or invalidate any proceeding, act or thing taken or done prior to his discharge.

15. *Persons to be attested.*—The following persons shall be attested, namely:—

(*a*) all persons enrolled as combatants;

(*b*) all persons selected to hold a non-commissioned or acting non-commissioned rank; and

(*c*) all other enrolled persons prescribed by the Central Government.

16. *Mode of attestation.*—(*1*) When a person who is to be attested is reported fit for duty, or has completed the prescribed period of probation, an oath or affirmation shall be administered to him in the prescribed form by his

commanding officer in front of his corps or such portion thereof or such members of his department as may be present, or by any other prescribed person.

(2) The form of oath or affirmation prescribed under this section shall contain a promise that the person to be attested will be faithful to the Union, and that he will serve in the regular Army and go wherever he is ordered by land, sea or air, and that he will obey all commands of any officer set over him, even to the peril of his life.

(3) The fact of an enrolled person having taken the oath or affirmation directed by this section to be taken shall be entered on his enrolment paper, and authenticated by the signature of the officer administering the oath or affirmation.

17. *Application of this Act to persons governed by the Indian Army Act, 1911.*—Any person, holding His Majesty's commission or a Viceroy's commission or a junior commission or appointed as a warrant officer or attested or enrolled in the Indian Land Forces at the commencement of this Act shall be deemed to have been commissioned as an officer or as a junior commissioned officer or appointed as a warrant officer, or attested or enrolled, as the case may be, in the regular Army.

## CHAPTER IV

### Conditions of Service

18. *Tenure of service under the Act.*—Every person subject to this Act shall hold office during the pleasure of the Governor-General.

19. *Termination of service by Central Government.*—The Central Government may dismiss, or remove from the service, any person subject to this Act.

20. *Dismissal, removal or reduction by Commander-in-Chief and by other officers.*—(1) The Commander-in-Chief may dismiss or remove from the service any person subject to this Act other than an officer.

(2) The Commander-in-Chief may reduce to a lower grade or rank or the ranks any warrant officer or any non-commissioned officer.

(3) An officer having power not less than a brigade or equivalent commander or any prescribed officer may dismiss or remove from the service any person serving under his command other than an officer or a junior commissioned officer.

(4) Any such officer as is mentioned in sub-section (3) may reduce to a lower grade or rank or the ranks, any warrant officer or any non-commissioned officer under his command.

(5) A warrant officer reduced to the ranks under this section shall not, however, be required to serve in the ranks as a sepoy.

(6) The commanding officer of an acting non-commissioned officer may order him to revert to his permanent grade as a non-commissioned officer, or if he has no permanent grade above the ranks, to the ranks.

21. *Restriction of certain fundamental rights in their application to persons subject to this Act.*—Notwithstanding anything contained in the Constitution and save as may be otherwise provided in any rules made by the Central Government in this behalf, any person subject to this Act shall not—

(a) be a member of, or be associated in any way with, any trade union, labour union or other similar organisation;

(b) be a member of, or be associated in any way with, any society, institution, association or other body of persons which is not recognised as part of the regular Army;

(*c*) address any meeting, or take part in any demonstration, organised by any body of persons for any political or other purposes,

(*d*) Communicate with the press or publish or cause to be published any book, letter or other document, except with the previous permission of the Central Government or of any officer specified in this behalf by the Central Government.

22. *Retirement, release or discharge.*—Any person subject to this Act may be retired, released or discharged from the service by such authority and in such manner as may be prescribed.

23. *Certificate on termination of service.*—Every junior commissioned officer, warrant officer, or enrolled person who is dismissed, removed, discharged, retired or released from the service shall be furnished by his commanding officer with a certificate, in the language which is the mother tongue of such person and also in the English language setting forth—

(*a*) the authority terminating his service;

(*b*) the cause for such termination; and

(*c*) the full period of his service in the regular Army.

24. *Discharge or dismissal when out of India.*—(*1*) Any person enrolled under this Act who is entitled under the conditions of his enrolment to be discharged, or whose discharge is ordered by competent authority, and who, when he is so entitled or ordered to be disharged, is serving out of India, and requests to be sent to India, shall, before being discharged, be sent to India with all convenient speed.

(*2*) Any person enrolled under this Act who is dismissed from the service and who, when he is so dismissed, is serving out of India, shall be sent to India with all convenient speed.

(*3*) Where any such person as is mentioned in sub-section (*2*) is sentenced to dismissal combined with any other punishment, such other punishment, or, in the case of a sentence of transportation or imprisonment, a portion of such sentence may be inflicted before he is sent to India.

(*4*) For the purposes of this section, the word "discharge" shall include release, and the word "dismissal" shall include removal.

## CHAPTER V

### Service Privileges

25. *Authorised deductions only to be made from pay.*—The pay of every person subject to this Act due to him as such under any regulation for the time being in force shall be paid without any deduction other than the deductions authorised by or under this or any other Act.

26. *Remedy of aggrieved persons other than officers.*—(*1*) Any person subject to this Act other than an officer who deems himself wronged by any superior or other officer may, if not attached to a troop or company, complain to the officer under whose command or orders he is serving; and may, if attached to a troop or company, complain to the officer commanding the same.

(*2*) When the officer complained against is the officer to whom any complaint should, under sub-section (*1*), be preferred, the aggrieved person may complain to such officer's next superior officer.

(*3*) Every officer receiving any such complaint shall make as complete an investigation into it as may be possible for giving full redress to the complainant; or, when necessary, refer the complaint to superior authority.

(*4*) Every such complaint shall be preferred in such manner as may from time to time be specified by proper authority.

(5) A decision by an authority competent to dispose of the matter complained of shall be final.

27. *Remedy of aggrieved officers.*—Any officer who deems himself wronged by his commanding officer or any superior officer and who on due application made to his commanding officer does not receive the redress to which he considers himself entitled, may complain to the Central Government in such manner as may from time to time be specified by the proper authority.

28. *Immunity from attachment.*—Neither the arms, clothes, equipment, accoutrements or necessaries of any person subject to this Act, nor any animal used by him for the discharge of his duty, shall be seized, nor shall the pay and allowances of any such person or any part thereof be attached, by direction of any civil or revenue court or any revenue officer in satisfaction of any decree or order enforceable against him.

29. *Immunity from arrest for debt.*—(1) No person subject to this Act shall, so long as he belongs to the Forces, be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue officer.

(2) The judge of any such court or the said officer may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this section and may, by warrant under his hand, discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(3) For the recovery of such costs no court-fee shall be payable by the complainant.

30. *Immunity of persons attending courts-martial from arrest.*—(1) No president or member of a court-martial, no judge advocate, no party to any proceeding before a court-martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial shall, while proceeding to, attending, or returning from, a court- martial, be liable to arrest under civil or revenue process.

(2) If any such person is arrested under any such process, he may be discharged by order of the court-martial.

31. *Privileges of reservists.*—Every person belonging to the Indian Reserve Forces shall, when called out for or engaged in or returning from, training or service, be entitled to all the privileges accorded by sections 28 and 29 to a person subject to this Act.

32. *Priority in respect of army personnel's litigation.*—(1) On the presentation to any court by or on behalf of any person subject to this Act of a certificate from the proper military authority of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such person, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

(2) The certificate from the proper military authority shall state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

(3) No fee shall be payable to the court in respect of the presentation of any such certificate, or of any application by on behalf of any such person, for priority for the hearing of his case.

(4) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for its inability to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(5) If in any case a question arises as to the proper military authority qualified to grant such certificate as aforesaid, such question shall at once be referred by the court to an officer having power not less than a brigade or equivalent commander whose decision shall be final.

33. *Saving of rights and privileges under other laws.*—The rights and privileges specified in the preceding sections of this Chapter shall be in addition to, and not in derogation of, any other rights and privileges conferred on persons subject to this Act or on members of the regular Army, Navy and Air Force generally by any other law for the time being in force.

## CHAPTER VI

### OFFENCES

34. *Offences in relation to the enemy and punishable with death.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(a) shamefully abandons or delivers up any garrison, fortress, post, place or guard, committed to his charge, or which it is his duty to defend, or uses any means to compel or induce any commanding officer or other person to commit any of the said acts; or

(b) intentionally uses any means to compel or induce any person subject to military, naval or air force law to abstain from acting against the enemy, or to discourage such person from acting against the enemy; or

(c) in the presence of the enemy, shamefully casts away his arms, ammunition, tools or equipment or misbehaves in such manner as to show cowardice; or

(d) treacherously holds correspondence with, or communicates intelligence to, the enemy or any person in arms against the Union; or

(e) directly or indirectly assists the enemy with money, arms, ammunition, stores or supplies; or

(f) treacherously or through cowardice sends a flag of truce to the enemy; or

(g) in time of war or during any military operation, intentionally occasions a false alarm in action, camp, garrison or quarters, or spreads reports calculated to create alarm or despondency; or

(h) in time of action leaves his commanding officer or his post, guard, picquet, patrol or party without being regularly relieved or without leave; or

(i) having been made a prisoner of war, voluntarily serves with or aids the enemy; or

(j) knowingly harbours or protects an enemy not being a prisoner; or

(k) being a sentry in time of war or alarm, sleeps upon his post or is intoxicated; or

(*l*) knowingly does any act calculated to imperil the success of the military, naval or air forces of India or any forces co-operating therewith or any part of such forces;

shall, on conviction by court-martial, be liable to suffer death or such less punishment as is in this Act mentioned.

35. *Offences in relation to the enemy and not punishable with death.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) is taken prisoner, by want of due precaution, or through disobedience of orders, or wilful neglect of duty, or having been taken prisoner, fails to rejoin his service when able to do so; or

(*b*) without due authority holds correspondence with or communicates intelligence to the enemy or having come by the knowledge of any such correspondence or communication, wilfully omits to discover it immediately to his commanding or other superior officer; or

(*c*) without due authority sends a flag of truce to the enemy;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

36. *Offences punishable more severely on active service than at other times.*—Any person subject to this Act who commits any of the following offences that is to say,—

(*a*) forces a safeguard, or forces or uses criminal force to a sentry; or

(*b*) breaks into any house or other place in search of plunder; or

(*c*) being a sentry sleeps upon his post, or is intoxicated; or

(*d*) without orders from his superior officer leaves his guard, picquet, patrol or post; or

(*e*) intentionally or through neglect occasions a false alarm in camp, garrison, or quarters; or spreads reports calculated to create unnecessary alarm or despondency; or

(*f*) makes known the parole, watchword or countersign to any person not entitled to receive it; or knowingly gives a parole, watchword or countersign different from what he received;

shall, on conviction by court-martial,

if he commits any such offence when on active service, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned, and

if he commits any such offence when not on active service, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

37. *Mutiny.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) begins, incites, causes, or conspires with any other persons to cause any mutiny in the military, naval or air forces of India or any forces, co-operating therewith; or

(*b*) joins in any such mutiny; or

(*c*) being present at any such mutiny, does not use his utmost endeavours to suppress the same; or

(*d*) knowing or having reason to believe in the existence of any such mutiny, or of any intention to mutiny or of any such conspiracy, does not, without delay, give information thereof to his commanding or other superior officer; or

(*e*) endeavours to seduce any person in the military, naval or air forces of India from his duty or allegiance to the Union;

shall, on conviction by court-martial, be liable to suffer death or such less punishment as is in this Act mentioned.

38. *Desertion and aiding desertion.*—(*1*) Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by court-martial,

if he commits the offence on active service or when under orders for active service, be liable to suffer death or such less punishment as is in this Act mentioned, and

if he commits the offence under any other circumstances, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(*2*) Any person subject to this Act who, knowingly harbours any such deserter shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(*3*) Any person subject to this Act who, being cognizant of any desertion or attempt at desertion of a person subject to this Act, does not forthwith give notice to his own or some other superior officer, or take any steps in his power to cause such person to be apprehended, shall on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

39. *Absence without leave.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) absents himself without leave; or

(*b*) without sufficient cause overstays leave granted to him; or

(*c*) being on leave of absence and having received information from proper authority that any corps, or portion of a corps, or any department, to which he belongs, has been ordered on active service, fails, without, sufficient cause, to rejoin without delay; or

(*d*) without sufficient cause fails to appear at the time fixed at the parade or place appointed for exercise or duty; or

(*e*) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer, quits the parade or line of march; or

(*f*) when in camp or garrison or elsewhere, is found beyond any limits fixed, or in any place prohibited, by any general, local or other order, without a pass or written leave from his superior officer; or

(*g*) without leave from his superior officer or without due cause, absents himself from any school when duly ordered to attend there;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

40. *Striking or threatening superior officers.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) uses criminal force to or assaults his superior officer; or

(*b*) uses threatening or insubordinate language to such officer;

shall, on conviction by court-martial,

if such officer is at the time in the execution of his office or, if the offence is committed on active service, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

in other cases, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

41. *Disobedience to superior officer.*—(*1*) Any person subject to this Act who disobeys in such manner as to show a wilful defiance of authority any lawful command given personally by his superior officer in the execution of his office whether the same is given orally, or in writing or by signal or otherwise, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

(*2*) Any person subject to this Act who disobeys any lawful command given by his superior officer shall on conviction by court-martial,

if he commits such offence on active service, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

if he commits such offence not on active service, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

42. *Insubordination and obstruction.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being concerned in any quarrel, affray, or disorder, refuses to obey any officer, though of inferior rank, who orders him into arrest, or uses criminal force to or assaults any such officer; or

(*b*) uses criminal force to, or assaults any person, whether subject to this Act or not, in whose custody he is lawfully placed, and whether he is or is not his superior officer; or

(*c*) resists an escort whose duty it is to apprehend him or to have him in charge; or

(*d*) breaks out of barracks, camp or quarters; or

(*e*) neglects to obey any general, local or other orders; or

(*f*) impedes the provost-marshal or any person lawfully acting on his behalf, or when called upon, refuses to assist in the execution of his duty a provost-marshal or any person lawfully acting on his behalf; or

(*g*) uses criminal force to or assaults any person bringing provisions or supplies to the forces;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clauses (*d*) and (*e*) to two years, and in the case of the offences specified in the other clauses to ten years, or such less punishment as is in this Act mentioned.

43. *Fraudulent enrolment.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) without having obtained a regular discharge from the corps or department to which he belongs, or otherwise fulfilled the conditions enabling him to enrol or enter, enrols himself in, or enters the same or any other corps or department or any part of the naval or air forces of India or the Territorial Army; or

(*b*) is concerned in the enrolment in any part of the Forces, of any person when he knows or has reason to believe such person to be so circumstanced that by enrolling he commits an offence against this Act;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

44. *False answers on enrolment.*—Any person having become subject to this Act who is discovered to have made at the time of enrolment a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

45. *Unbecoming conduct.*—Any officer, junior commissioned officer or warrant officer who behaves in a manner unbecoming his position and the character expected of him shall, on conviction by court-martial, if he is an officer, be liable to be cashiered or to suffer such less punishment as is in this Act mentioned; and, if he is a junior commissioned officer or a warrant officer, be liable to be dismissed or to suffer such less punishment as is in this Act mentioned.

46. *Certain forms of disgraceful conduct.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) is guilty of any disgraceful conduct of a cruel, indecent or unnatural kind; or

(*b*) malingers, or feigns, or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity; or

(*c*) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or that person;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

47. *Ill-treating a subordinate.*—Any officer, junior commissioned officer, warrant officer or non-commissioned officer who uses criminal force to or otherwise ill-treats any person subject to this Act, being his subordinate in rank or position, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

48. *Intoxication.*—(*1*) Any person subject to this Act who is found in a state of intoxication, whether on duty or not, shall, on conviction by court-martial, if he is an officer, be liable to be cashiered or to suffer such less punishment as is in this Act mentioned; and if he is not an officer, be liable, subject to the provisions of sub-section (*2*), to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

(2) Where an offence of being intoxicated is committed by a person other than an officer when not on active service or not on duty, the period of imprisonment awarded shall not exceed six months.

49. *Permitting escape of person in custody.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(a) when in command of a guard, picquet, patrol or post, releases without proper authority, whether wilfully or without reasonable excuse, any person committed to his charge, or refuses to receive any prisoner or person so committed; or

(b) wilfully or without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to keep or guard;

shall, on conviction by court-martial, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and if he has not acted wilfully, to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

50. *Irregularity in connection with arrest or confinement.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(a) unnecessarily detains a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation; or

(b) having committed a person to military custody fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within forty-eight hours thereafter, to the officer or other person into whose custody the person arrested is committed, an account in writing signed by himself of the offence with which the person so committed is charged;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

51. *Escape from custody.*—Any person subject to this Act who, being in lawful custody, escapes or attempts to escape, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

52. *Offences in respect of property.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(a) commits theft of any property belonging to the Government, or to any military, naval or air force mess, band or institution, or to any person subject to military, naval or air force law; or

(b) dishonestly misappropriates or converts to his own use any such property; or

(c) commits criminal breach of trust in respect of any such property; or

(d) dishonestly receives or retains any such property in respect of which any of the offences under clauses (a), (b) and (c) has been committed, knowing or having reason to believe the commission of such offence; or

(e) wilfully destroys or injures any property of the Government entrusted to him; or

(f) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

53. *Extortion and corruption.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) commits extortion; or

(*b*) without proper authority exacts from any person money, provisions or service;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend in the case of the offence specified in clause (*a*) to seven years, and in the case of the offences specified in clause (*b*) to five years, or such less punishment as is in this Act mentioned.

54. *Making away with equipment.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) makes away with, or is concerned in making away with, any arms, ammunition, equipment, instruments, tools, clothing or any other thing being the property of the Government issued to him for his use or entrusted to him; or

(*b*) loses by neglect anything mentioned in clause (*a*); or

(*c*) sells, pawns, destroys or defaces any medal or decoration granted to him;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

55. *Injury to property.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) wilfully destroys or injures any property mentioned in clause (*a*) of section 54 or any property belonging to any military, naval or air force mess, band or institution, or to any person subject to military, naval or air force law, or serving with, or attached to, the regular Army; or

(*b*) commits any act, whether wilfully or without reasonable excuse, which causes damage to, or destruction of, any property of the Government by fire; or

(*c*) wilfully or without reasonable excuse kills, injures, makes away with, ill-treats or loses any animal entrusted to him;

shall, on conviction by court-martial, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and in any other case, to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

56. *False accusations.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) makes a false accusation against any person subject to this Act, knowing or having reason to believe such accusation to be false; or

(*b*) in making a complaint under section 26 or section 27 makes any statement affecting the character of any person subject to this Act, knowing or having reason to believe such statement to be false, or knowingly and wilfully suppresses any material facts;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

57. *Falsifying official documents and false declaration.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) in any report, return, list, certificate, book or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes, or is privy to the making of any false or fraudulent statement; or

(*b*) in any document of the description mentioned in clause (*a*) knowingly makes, or is privy to the making of, any omission, with intent to defraud; or

(*c*) knowingly and with intent to injure any person, or knowingly and with intent to defraud, suppresses, defaces, alters or makes away with any document which it is his duty to preserve or produce; or

(*d*) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration; or

(*e*) obtains for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any book or record or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

58. *Signing in blank and failure to report.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) when signing any document relating to pay, arms, ammunition, equipment, clothing, supplies or stores, or any property of the Government leaves in blank any material part for which his signature is a voucher; or

(*b*) refuses or by culpable neglect omits to make or send a report or return which it is his duty to make or send; shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

59. *Offences relating to court-martial.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being duly summoned or ordered to attend as a witness before a court-martial, wilfully or without reasonable excuse, makes default in attending; or

(*b*) refuses to take an oath or make an affirmation legally required by a court-martial to be taken or made; or

(*c*) refuses to produce or deliver any document in his power or control legally required by a court-martial to be produced or delivered by him; or

(*d*) refuses when a witness to answer any question which he is by law bound to answer; or

(*e*) is guilty of contempt of court-martial by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

60. *False evidence.*—Any person subject to this Act who, having been duly sworn or affirmed before any court-martial or other court competent under this Act to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

61. *Unlawful detention of pay.*—Any officer, junior commissioned officer, warrant officer or non-cimmissioned officer who, having received the pay of a person subject to this Act unlawfully detains or refuses to pay the same when due, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

62. *Offences in relation to aircraft and flying.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) wilfully or without reasonable excuse damages, destroys or loses any aircraft or aircraft material belonging to the Government ; or

(*b*) is guilty of any act or neglect likely to cause such damage, destruction or loss ; or

(*c*) without lawful authority disposes of any aircraft or aircraft material belonging to the Government ; or

(*d*) is guilty of any act or neglect in flying, or in the use of any aircraft, or in relation to any aircraft or aircraft material, which causes or is likely to cause loss of life or bodily injury to any person ; or

(*e*) during a state of war, wilfully and without proper occasion, or negligently, causes the sequestration, by or under the authority of a neutral state, or the destruction in a neutral state of any aircraft belonging to the Government ;

shall, on conviction by court-martial be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned, and in any other case, to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

63. *Violation of good order and discipline.*—Any person subject to this Act who is guilty of any act or omission which though not specified in this Act, is prejudicial to good order and military discipline shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

64. *Miscellaneous offences.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority ; or

(*b*) by defiling any place of worship, or otherwise, intentionally insults the religion or wounds the religious feelings of any person ; or

(*c*) attempts to commit suicide, and in such attempt does any act towards the commission of such offence; or

(*d*) being below the rank of warrant officer, when off duty, appears, without proper authority, in or about camp or cantonments, or in or about, or when going to or returning from, any town or bazaar, carrying a rifle, sword or other offensive weapon; or

(*e*) directly or indirectly accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service; or

(*f*) commits any offence against the property or person of any inhabitant of, or resident in, the country in which he is serving;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

65. *Attempt.*—Any person subject to this Act who attempts to commit any of the offences specified in sections 34 to 64 inclusive and in such attempt does any act towards the commission of the offence shall, on conviction by court-martial, where no express provision is made by this Act for the punishment of such attempt, be liable,

if the offence attempted to be committed is punishable with death, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

if the offence attempted to be committed is punishable with imprisonment, to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

66. *Abetment of offences that have been committed.*—Any person subject to this Act who abets the commission of any of the offences specified in sections 34 to 64 inclusive shall, on conviction by court-martial, if the Act abetted is committed in consequence of the abetment and no express provision is made by this Act for the punishment of such abetment, be liable to suffer the punishment provided for that offence or such less punishment as is in this Act mentioned.

67. *Abetment of offences punishable with death and not committed.*—Any person subject to this Act who abets the commission of any of the offences punishable with death under sections 34, 37 and sub-section (*1*) of section 38 shall, on conviction by court-martial, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

68. *Abetment of offences punishable with imprisonment and not committed.*—Any person subject to this Act who abets the commission of any of the offences specified in sections 34 to 64 inclusive and punishable with imprisonment shall, on conviction by court-martial, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

69. *Civil offences.*—Subject to the provisions of section 70, any person subject to this Act who at any place in or beyond India commits any civil offence shall

be deemed to be guilty of an offence against this Act and, if charged therewith under this section, shall be liable to be tried by a court-martial and, on conviction, be punishable as follows, that is to say,—

(*a*) if the offence is one which would be punishable under any law in force in India with death or with transportation, he shall be liable to suffer any punishment, other than whipping, assigned for the offence, by the aforesaid law and such less punishment as is in this Act mentioned; and

(*b*) in any other case, he shall be liable to suffer any punishment, other than whipping, assigned for the offence by the law in force in India, or imprisonment for a term which may extend to seven years, or such less punishment as is in this Act mentioned.

70. *Civil offences not triable by court-martial.*—A person subject to this Act who commits an offence of murder against a person not subject to military, naval or air force law, or of culpable homicide not amounting to murder against such a person or of rape in relation to such a person, shall not be deemed to be guilty of an offence against this Act and shall not be tried by a court-martial, unless he commits any of the said offences—

(*a*) while on active service, or

(*b*) at any place outside India, or

(*c*) at a frontier post specified by the Central Government by notification in this behalf.

## CHAPTER VII

### PUNISHMENTS

71. *Punishments awardable by courts-martial.*—Punishments may be inflicted in respect of offences committed by persons subject to this Act and convicted by courts-martial, according to the scale following, that is to say,—

(*a*) death;

(*b*) transportation for life or for any period not less than seven years;

(*c*) imprisonment, either rigorous or simple, for any period not exceeding fourteen years;

(*d*) cashiering, in the case of officers;

(*e*) dismissal from the service;

(*f*) reduction to the ranks or to a lower rank or grade or place in the list of their rank, in the case of warrant officers; and reduction to the ranks or to a lower rank or grade, in the case of non-commissioned officers:

Provided that a warrant officer reduced to the ranks shall not be required to serve in the ranks as a sepoy;

(*g*) forfeiture of seniority of rank, in the case of officers, junior commissioned officers, warrant officers and non-commissioned officers; and forfeiture of all or any part of their service for the purpose of promotion, in the case of any of them whose promotion depends upon length of service;

(*h*) forfeiture of service for the purpose of increased pay, pension or any other prescribed purpose;

(*i*) severe reprimand or reprimand, in the case of officers, junior commissioned officers, warrant officers and non-commissioned officers;

(*j*) forfeiture of pay and allowances for a period not exceeding three months for an offence committed on active service;

(*k*) forfeiture in the case of a person sentenced to cashiering or dismissal from the service of all arrears of pay and allowances and other public money due to him at the time of such cashiering or dismissal;

(*l*) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

72. *Alternative punishments awardable by court-martial.*—Subject to the provisions of this Act, a court-martial may, on convicting a person subject to this Act of any of the offences specified in sections 34 to 68 inclusive, award either the particular punishment with which the offence is stated in the said sections to be punishable, or, in lieu thereof, any one of the punishments lower in the scale set out in section 71, regard being had to the nature and degree of the offence.

73. *Combination of punishments.*—A sentence of a court-martial may award in addition to, or without any one other punishment, the punishment specified in clause (*d*) or clause (*e*) of section 71 and any one or more of the punishments specified in clauses (*f*) to (*l*) of that section.

74. *Cashiering of officers.*—An officer shall be sentenced to be cashiered before he is awarded any of the punishments specified in clauses (*a*) to (*c*) of section 71.

75. *Field punishment.*—Where any person subject to this Act and under the rank of warrant officer commits any offence on active service, it shall be lawful for a court-martial to award for that offence any such punishment as is prescribed as a field punishment. Field punishment shall be of the character of personal restraint or of hard labour but shall not be of a nature to cause injury to life or limb and shall not include flogging.

76. *Position of field punishment in scale of punishments.*—Field punishment shall for the purpose of commutation be deemed to stand next below dismissal in the scale of punishments specified in section 71.

77. *Result of certain punishments in the case of a warrant officer or non-commissioned officer.*—A warrant officer or a non-commissioned officer sentenced by a court-martial to transportation, imprisonment, field punishment or dismissal from the service, shall be deemed to be reduced to the ranks.

78. *Retention in the ranks of a person convicted on active service.*—When, on active service, any enrolled person has been sentenced by a court-martial to dismissal, or to transportation or imprisonment whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks, and such service shall be reckoned as part of his term of transportation or imprisonment, if any.

79. *Punishments otherwise than by court-martial.*—Punishments may also be inflicted in respect of offences committed by persons subject to this Act without the intervention of a court-martial and in the manner stated in sections 80, 83, 84 and 85.

80. *Punishment of persons other than officers, junior commissioned officers and warrant officers.*—Subject to the provisions of section 81, a commanding officer or such other officer as is, with the consent of the Central Government, specified by the Commander-in-Chief, may, in the prescribed manner, proceed against a person subject to this Act otherwise than as an officer, junior commissioned officer or warrant officer who is charged with an offence under this Act and award such person, to the extent prescribed, one or more of the following punishments, that is to say,—

(*a*) imprisonment in military custody up to twenty-eight days;
(*b*) detention up to twenty-eight days;
(*c*) confinement to the lines up to twenty-eight days;
(*d*) extra guards or duties;

(*e*) deprivation of a position of the nature of an appointment or of corps or working pay, and in the case of non-commissioned officers, also deprivation of acting rank or reduction to a lower grade of pay;

(*f*) forfeiture of good service and good conduct pay;

(*g*) severe reprimand or reprimand;

(*h*) fine up to fourteen days' pay in any one month;

(*i*) penal deductions under clause (*g*) of section 91;

(*j*) any prescribed field punishment up to twenty-eight days, in the case of a person on active service.

81. *Limit of punishments under section* 80.—(*1*) An award of punishment under section 80 shall not include field punishment in addition to one or more of the punishments specified in clauses (*a*), (*b*) and (*c*) of that section.

(*2*) In the case of an award of two or more of the punishments specified in clauses (*a*), (*b*), (*c*) and (*d*) of the said section, the punishment specified in clause (*c*) or clause (*d*) shall take effect only at the end of the punishment specified in clause (*a*) or clause (*b*).

(*3*) When two or more of the punishments specified in the said clauses (*a*), (*b*) and (*c*) are awarded to a person conjointly, or when already undergoing one or more of the said punishments, the whole extent of the punishments shall not exceed in the aggregate forty-two days.

(*4*) The punishments specified in clauses (*a*), (*b*), (*c*) and (*j*), of section 80 shall not be awarded to any person who is of the rank of non-commissioned officer or was, at the time of committing the offence for which he is punished, of such rank.

(*5*) The punishment specified in clause (*g*) of the said section shall not be awarded to any person below the rank of a non-commissioned officer.

82. *Punishments in addition to those specified in section* 80.—The Commander-in-Chief may, with the consent of the Central Government, specify such other punishments as may be awarded under section 80 in addition to or without any of the punishments specified in the said section, and the extent to which such other punishments may be awarded.

83. *Punishment of officers, junior commissioned officers and warrant officers by brigade commanders and others.*—An officer having power not less than a brigade, or an equivalent commander or such other officer as is, with the consent of the Central Government, specified by the Commander-in-Chief may in the prescribed manner, proceed against an officer below the rank of a field officer, a junior commissioned officer or a warrant officer, who is charged with an offence under this Act, and award one or more of the following punishments, that is to say,—

(*a*) severe reprimand or reprimand;

(*b*) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

84. *Punishment of officers, junior commissioned officers and warrant officers by area commanders and others.*—An officer having power not less than an area commander or an equivalent commander or an officer empowered to convene a general court-martial or such other officer as is, with the consent of the Central Government, specified by the Commander-in-Chief may, in the prescribed manner, proceed against an officer below the rank of lieutenant-colonel, a junior commissioned officer or a warrant officer, who is charged with an offence under this Act, and award one or more of the following punishments, that is to say,—

(*a*) forfeiture of seniority, or in the case of any of them whose promotion depends upon length of service, forfeiture of service for the purpose of

promotion for a period not exceeding twelve months, but subject to the right of the accused previous to the award to elect to be tried by a court-martial;

(*b*) severe reprimand or reprimand;

(*c*) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

85. *Punishment of junior commissioned officers.*—A commanding officer or such other officer as is, with the consent of the Central Government, specified by the Commander-in-Chief may, in the prescribed manner, proceed against a junior commissioned officer who is charged with an offence under this Act and award the punishment of stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

86. *Transmission of proceedings.*—In every case in which punishment has been awarded under any of the sections 83, 84 and 85, certified true copies of the proceedings shall be forwarded, in the prescribed manner, by the officer awarding the punishment, to a superior military authority as defined in section 88.

87. *Review of proceedings.*—If any punishment awarded under any of the sections 83, 84 and 85 appears to a superior military authority as defined in section 88 to be illegal, unjust or excessive, such authority may cancel, vary or remit the punishment and make such other direction as may be appropriate in the circumstances of the case.

88. *Superior military authority.*—For the purpose of sections 86 and 87, a 'superior military authority' means—

(*a*) in the case of punishments awarded by a commanding officer, any officer superior in command to such commanding officer;

(*b*) in the case of punishments awarded by any other authority, the Central Government, the Commander-in-Chief or other officer specified by the Commander-in-Chief.

89. *Collective fines.*—(*1*) Whenever any weapon or part of a weapon forming part of the equipment of a half squadron, battery, company or other similar unit is lost or stolen, the officer commanding the army, army corps, division or independent brigade to which such unit belongs may, after obtaining the report of a court of inquiry, impose a collective fine upon the junior commissioned officers, warrant officers, non-commissioned officers and men of such unit, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

(*2*) Such fine shall be assessed as a percentage on the pay of the individuals on whom it falls.

## CHAPTER VIII

### Penal Deductions

90. *Deductions from pay and allowances of officers.*—The following penal deductions may be made from the pay and allowances of an officer, that is to say,—

(*a*) all pay and allowances due to an officer for every day he absents himself without leave, unless a satisfactory explanation has been given to his commanding officer and has been approved by the Central Government;

(*b*) all pay and allowances for every day while he is in custody on a charge for an offence for which he is afterwards convicted by a criminal Court or a court-martial or by an officer exercising authority under section 83 or section 84;

(*c*) any sum required to make good the pay of any person subject to this Act which he has unlawfully retained or unlawfully refused to pay;

(*d*) any sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of an offence as may be determined by the court-martial by whom he is convicted of such offence, or by an officer exercising authority under section 83 or section 84;

(*e*) all pay and allowances ordered by a court-martial or an officer exercising authority under section 85 to be forfeited or stopped;

(*f*) any sum required to pay a fine awarded by a criminal court or a court-martial exercising jurisdiction under section 69;

(*g*) any sum required to make good any loss, damage, or destruction of public or regimental property which, after due investigation, appears to the Central Government to have been occasioned by the wrongful act or negligence on the part of the officer;

(*h*) all pay and allowances forfeited by order of the Central Government if the officer is found by a court of inquiry constituted by the Commander-in-Chief in this behalf, to have deserted to the enemy, or while in enemy hands, to have served with, or under the orders of, the enemy, or in any manner to have aided the enemy, or to have allowed himself to be taken prisoner by the enemy through want of due precaution or through disobedience of orders or wilful neglect of duty, or having been taken prisoner by the enemy, to have failed to rejoin his service when it was possible to do so;

(*i*) any sum required by order of the Central Government to be paid for the maintenance of his wife or his legitimate or illegitimate child or towards the cost of any relief given by the said Government to the said wife or child.

91. *Deductions from pay and allowances of persons other than officers.*—Subject to the provisions of section 94 the following penal deductions may be made from the pay and allowances of a person subject to this Act other than an officer, that is to say,—

(*a*) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of transportation or imprisonment awarded by a criminal court, a court-martial or an officer exercising authority under section 80, or of field punishment awarded by a court-martial or such officer;

(*b*) all pay and allowances for every day while he is in custody on a charge for an offence of which he is afterwards convicted by a criminal Court or a court-martial, or on a charge of absence without leave for which he is afterwards awarded imprisonment or field punishment by an officer exercising authority under section 80;

(*c*) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by an offence under this Act committed by him;

(*d*) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be specified by order of the Central Government or such officer as may be specified by that Government;

(*e*) all pay and allowances ordered by a court-martial or by an officer exercising authority under any of the sections 80, 83, 84 and 85, to be forfeited or stopped;

(*f*) all pay and allowances for every day between his being recovered from the enemy and his dismissal from the service in consequence of his conduct when being taken prisoner by, or while in the hands of, the enemy;

(*g*) any sum required to make good such compensation for any expenses, loss, damage or destruction caused by him to the Central Government or to any building or property as may be awarded by his commanding officer;

(*h*) any sum required to pay a fine awarded by a criminal court, a court-martial exercising jurisdiction under section 69, or an officer exercising authority under any of the sections 80 and 89;

(*i*) any sum required by order of the Central Government or any prescribed officer to be paid for the maintenance of his wife or his legitimate or illegitimate child or towards the cost of any relief given by the said Government to the said wife or child.

92. *Computation of time of absence or custody.*—For the purposes of clauses (*a*) and (*b*) of section 91,—

(*a*) no person shall be treated as absent or in custody for a day unless the absence or custody has lasted, whether wholly in one day, or partly in one day and partly in another, for six consecutive hours or upwards;

(*b*) any absence or custody for less than a day may be reckoned as absence or custody for a day if such absence or custody prevented the absentee from fulfilling any military duty which was thereby thrown upon some other person;

(*c*) absence or custody for twelve consecutive hours or upwards may be reckoned as absence or custody for the whole of each day during any portion of which the person was absent or in custody;

(*d*) a period of absence, or imprisonment, which commences before, and ends after, midnight may be reckoned as a day.

93. *Pay and allowances during trial.*—In the case of any person who is in custody on a charge for an offence, the prescribed officer may direct that the whole or any part of the pay and allowances of such person shall be withheld, pending the result of his trial on the charge against him, in order to give effect to the provisions of clause (*b*) of sections 90 and 91.

94. *Limit of certain deductions.*—The total deductions from the pay and allowances of a person made under clauses (*e*), (*g*) to (*i*) of section 91 shall not, except where he is sentenced to dismissal, exceed in any one month one-half of his pay and allowances for that month.

95. *Deduction from public money due to a person.*—Any sum authorised by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

96. *Pay and allowances of prisoner of war during inquiry into his conduct.*—Where the conduct of any person subject to this Act when being taken prisoner by, or while in the hands of, the enemy, is to be inquired into under this Act or any other law, the Commander-in-Chief or any officer authorised by him may order that the whole or any part of the pay and allowances of such person shall be withheld pending the result of such inquiry.

97. *Remission of deductions.*—Any deduction from pay and allowances authorised by this Act may be remitted in such manner and to such extent, and by such authority, as may from time to time be prescribed.

98. *Provision for dependants of prisoner of war from remitted deductions.*—In the case of all persons subject to this Act, being prisoners of war, whose pay and allowances have been forfeited under clause (*h*) of section 90 or clause (*a*) of section 91, but in respect of whom a remission has been made under section 97, it shall be lawful for proper provision to be made by the prescribed authorities out of such pay and allowances for any dependants of such persons, and

any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances.

99. *Provision for dependants of prisoner of war from his pay and allowances.*—It shall be lawful for proper provision to be made by the prescribed authorities for any dependants of any person subject to this Act who is a prisoner of war or is missing, out of his pay and allowances.

100. *Period during which a person is deemed to be a prisoner of war.*—For the purposes of sections 98 and 99, a person shall be deemed to continue to be a prisoner of war until the conclusion of any inquiry into his conduct such as is referred to in section 96, and if he is cashiered or dismissed from the service in consequence of such conduct, until the date of such cashiering or dismissal.

## CHAPTER IX

### Arrest and Proceedings before Trial

101. *Custody of offenders.*—(*1*) Any person subject to this Act who is charged with an offence may be taken into military custody.

(*2*) Any such person may be ordered into military custody by any superior officer.

(*3*) An officer may order into military custody any officer, though he may be of a higher rank, engaged in a quarrel, affray or disorder.

102. *Duty of commanding officer in regard to detention.*—(*1*) It shall be the duty of every commanding officer to take care that a person under his command when charged with an offence is not detained in custody for more than forty-eight hours after the committal of such person into custody is reported to him, without the charge being investigated, unless investigation within that period seems to him to be impracticable having regard to the public service.

(*2*) The case of every person being detained in custody beyond a period of forty-eight hours, and the reason thereof, shall be reported by the commanding officer to the general or other officer to whom application would be made to convene a general or district court-martial for the trial of the person charged.

(*3*) In reckoning the period of forty-eight hours specified in sub-section (*1*), Sundays and other public holidays shall be excluded.

(*4*) Nothing contained in clauses (*1*) and (*2*) of Article 22 of the Constitution shall apply to any person who is taken into military custody under the provisions of this Act.

103. *Interval between committal and court-martial.*—In every case where any such person as is mentioned in section 101 and as is not on active service remains in such custody for a longer period than eight days, without a court-martial for his trial being ordered to assemble, a special report of the necessity for further delay shall be made by his commanding officer in the manner prescribed, and a similar report shall be forwarded at intervals of every eight days cribed, and a similar report shall be forwarded at intervals of every eight days until a court-martial is assembled or such person is released from custody.

104. *Arrest by civil authorities.*—Whenever any person subject to this Act, who is accused of any offence under this Act, is within the jurisdiction of any Magistrate or police officer, such Magistrate or police officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect signed by his commanding officer.

105. *Capture of deserters.*—(*1*) Whenever any person subject to this Act deserts, the commanding officer of the corps, department or detachment to which he belongs, shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the

capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter, when apprehended, into military custody.

(2) Any police officer may arrest without warrant any person reasonably believed to be subject to this Act, and to be a deserter or to be travelling without authority, and shall bring him without delay before the nearest Magistrate, to be dealt with according to law.

106. *Inquiry into absence without leave.*—(1) When any person subject to this Act has been absent from his duty without due authority for a period of thirty days, a court of inquiry shall, as soon as practicable, be assembled, and such court shall, on oath or affirmation administered in the prescribed manner, inquire respecting the absence of the person, and the deficiency, if any, in the property of the Government entrusted to his care, or in any arms, ammunition, equipment, instruments, clothing or necessaries; and if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any, and the commanding officer of the corps or department to which the person belongs shall enter in the court-martial book of the corps or department a record of the declaration.

(2) If the person declared absent does not afterwards surrender or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

107. *Provost-marshals.*—(1) Provost-marshals may be appointed by the Commander-in-Chief, or by any prescribed officer.

(2) The duties of a provost-marshal so appointed are to take charge of persons confined for any offence, to preserve good order and discipline, and to prevent breaches of the same by persons serving in, or attached to, the regular Army.

(3) A provost-marshal may at any time arrest and detain for trial any person subject to this Act who commits, or is charged with, an offence, and may also carry into effect any punishment to be inflicted in pursuance of the sentence awarded by a court-martial, or by an officer exercising authority under section 80 but shall not inflict any punishment on his own authority.

(4) For the purposes of sub-sections (2) and (3), a provost-marshal shall be deemed to include a provost-marshal appointed under any law for the time being in force relating to the government of the Navy or Air Force, and any person legally exercising authority under him or on his behalf.

## CHAPTER X

### COURTS-MARTIAL

108. *Kinds of courts-martial.*—For the purposes of this Act there shall be four kinds of courts-martial, that is to say,—

(a) general courts-martial;
(b) district courts-martial;
(c) summary general courts-martial; and
(d) summary courts-martial.

109. *Power to convene a general court-martial.*—A general court-martial may be convened by the Central Government or the Commander-in-Chief, or by any officer empowered in this behalf by warrant of the Commander-in-Chief.

110. *Power to convene a district court-martial.*—A district court-martial may be convened by an officer having power to convene a general court-martial, or by any officer empowered in this behalf by warrant of any such officer.

111. *Contents of warrants issued under sections* 109 *and* 110.—A warrant issued under section 109 or section 110 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

112. *Power to convene a summary general court-martial.*—The following authorities shall have power to convene a summary general court-martial, namely,—

(*a*) an officer empowered in this behalf by an order of the Central Government or of the Commander-in-Chief;

(*b*) on active service, the officer commanding the forces in the field, or any officer empowered by him in this behalf;

(*c*) an officer commanding any detached portion of the regular Army on active service when, in his opinion, it is not practicable, with due regard to discipline and the exigencies of the service, that an offence should be tried by a general court-martial.

113. *Composition of general court-martial.*—A general court-martial shall consist of not less than five officers, each of whom has held a commission for not less than three whole years and of whom not less than four are of a rank not below that of captain.

114. *Composition of district court-martial.*—A district court-martial shall consist of not less than three officers, each of whom has held a commission for not less than two whole years.

115. *Composition of summary general court-martial.*—A summary general court-martial shall consist of not less than three officers.

116. *Summary court-martial.*—(*1*) A summary court-martial may be held by the commanding officer of any corps, department or detachment of the regular Army, and he shall alone constitute the court.

(*2*) The proceedings shall be attended throughout by two other persons who shall be officers or junior commissioned officers or one of either, and who shall not as much be sworn or affirmed.

117. *Dissolution of courts-martial.*—(*1*) If a court-martial after the commencement of a trial is reduced below the minimum number of officers required by this Act, it shall be dissolved.

(*2*) If, on account of the illness of the judge advocate or of the accused before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(*3*) The officer who convened a court-martial may dissolve such court-martial if it appears to him that military exigencies or the necessities of discipline render it impossible or inexpedient to continue the said court-martial.

(*4*) Where a court-martial is dissolved under this section, the accused may be tried again.

118. *Powers of general and summary general courts-martial.*—A general or summary general court-martial shall have power to try any person subject to this Act for any offence punishable therein and to pass any sentence authorised thereby.

119. *Powers of district courts-martial.*—A district court-martial shall have power to try any person subject to this Act other than an officer or a junior commissioned officer for any offence made punishable therein, and to pass any sentence authorised by this Act other than a sentence of death, transportation, or imprisonment for a term exceeding two years;

Provided that a district court-martial shall not sentence a warrant officer to imprisonment.

120. *Powers of summary courts-martial.*—(*1*) Subject to the provisions of sub-section (*2*), a summary court-martial may try any offence punishable under this Act.

(*2*) When there is no grave reason for immediate action and reference can without detriment to discipline be made to the officer empowered to convene a district court-martial or on active service a summary general court-martial for the trial of the alleged offender, an officer holding a summary court-martial shall not try without such reference any offence punishable under any of the sections 34, 37 and 69, or any offence against the officer holding the court.

(*3*) A summary court-martial may try any person subject to this Act and under the command of the officer holding the court, except an officer, junior commissioned officer or warrant officer.

(*4*) A summary court-martial may pass any sentence which may be passed under this Act, except a sentence of death or transportation, or of imprisonment for a term exceeding the limit specified in sub-section (*5*).

(*5*) The limit referred to in sub-section (*4*) shall be one year if the officer holding the summary court-martial is of the rank of lieutenant-colonel and upwards, and three months if such officer is below that rank.

121. *Prohibition of second trial.*—When any person subject to this Act has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been dealt with under any of the sections 80, 83, 84 and 85, he shall not be liable to be tried again for the same offence by a court-martial or dealt with under the said sections.

122. *Period of limitation for trial.*—(*1*) Except as provided by sub-section (*2*), no trial by court-martial of any person subject to this Act for any offence shall be commenced after the expiration of a period of three years from the date of such offence.

(*2*) The provision of sub-section (*1*) shall not apply to a trial for an offence of mutiny, desertion or fraudulent enrolment.

(*3*) In the computation of the period of time mentioned in sub-section (*1*), any time spent by such person as a prisoner of war, or in enemy territory, or in evading arrest after the commission of the offence, shall be excluded.

(*4*) No trial for an offence of desertion other than desertion on active service or of fraudulent enrolment shall be commenced if the person in question, not being an officer, has subsequently to the commission of the offence, served continuously in an exemplary manner for not less than three years with any portion of the regular Army.

(*5*) For the purposes of sub-section (*2*), mutiny means any of the offences mentioned in section 37.

123. *Liability of offender who ceases to be subject to Act.*—(*1*) Where an offence under this Act had been committed by any person while subject to this Act, and he has ceased to be so subject, he may be taken into and kept in military custody, and tried and punished for such offence as if he continued to be so subject.

(*2*) No such person shall be tried for an offence, unless his trial commences within six months after he had ceased to be subject to this Act :

Provided that nothing contained in this sub-section shall apply to the trial of any such person for an offence of mutiny, desertion or fraudulent enrolment

or shall affect the jurisdiction of a criminal court to try any offence triable by such court as well as by a court-martial.

(3) When a person subject to this Act is sentenced by a court-martial to transportation or imprisonment, this Act shall apply to him during the term of his sentence, though he is cashiered or dismissed from the regular Army, or has otherwise ceased to be subject to this Act, and he may be kept, removed, imprisoned and punished as if he continued to be subject to this Act.

(4) When a person subject to this Act is sentenced by a court-martial to death, this Act shall apply to him till the sentence is carried out.

124. *Place of trial.*—Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever.

125. *Choice between criminal court and court-martial.*—When a criminal court and a court-martial have each jurisdiction in respect of an offence, it shall be in the discretion of the officer commanding the army, army corps, division or independent brigade in which the accused person is serving or such other officer as may be prescribed to decide before which court the proceedings shall be instituted, and, if that officer decides that they should be instituted before a court-martial, to direct that the accused person shall be detained in military custody.

126. *Power of criminal court to require delivery of offender.*—(1) When a criminal court having jurisdiction is of opinion that proceedings shall be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer referred to in section 125 at his option, either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings pending a reference to the Central Government.

(2) In every such case the said officer shall either deliver over the offender in compliance with the requisition, or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of the Central Government, whose order upon such reference shall be final.

127. *Successive trials by a criminal court and court-martial.*—(1) A person convicted or acquitted by a court-martial may, with the previous sanction son convicted or acquitted by a court-martial may, with the previous sanction of the Central Government, be tried again by a criminal court for the same offence, or on the same facts.

(2) If a person sentenced by a court-martial under this Act or punished under any of the sections 80, 83, 84 or 85 is afterwards tried and convicted by a criminal court for the same offence, or on the same facts, that court shall, in awarding punishment, have regard to the punishment he may already have undergone for the said offence.

## CHAPTER XI

### Procedure of Courts-martial

128. *President.*—At every general, district or summary general court-martial the senior member shall sit as president.

129. *Judge Advocate.*—Every general court-martial shall, and every district or summary general court-martial may, be attended by a judge advocate, who shall be either an officer belonging to the department of the Judge Advocate General, or if no such officer is available, an officer approved of by the Judge Advocate General or any of his deputies.

130. *Challenges.*—(1) At all trials by general, district or summary general courts-martial, as soon as the court is assembled, the names of the president and

members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the court.

(2) If the accused objects to any such officer, his objection, and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner by another officer, subject to the same right of the accused to object.

(4) When no challenge is made, or when challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the court shall proceed with the trial.

131. *Oaths of member, judge advocate and witness.*—(1) An oath or affirmation in the prescribed manner shall be administered to every member of every court-martial and to the judge advocate before the commencement of the trial.

(2) Every person giving evidence before a court-martial shall be examined on oath or affirmation, and shall be duly sworn or affirmed in the prescribed form.

(3) The provisions of sub-section (2) shall not apply where the witness is a child under twelve years of age and the court-martial is of opinion that though the witness understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation.

132. *Voting of members.*—(1) Subject to the provisions of sub-sections (2) and (3), every decision of a court-martial shall be passed by an absolute majority of votes; and where there is an equality of votes on either the finding or the sentence, the decision shall be in favour of the accused.

(2) No sentence of death shall be passed by a general court-martial without the concurrence of at least two-thirds of the members of the court.

(3) No sentence of death shall be passed by a summary general court-martial without the concurrence of all the members.

(4) In matters, other than a challenge or the finding or sentence, the president shall have a casting vote.

133. *General rule as to evidence.*—The Indian Evidence Act, 1872 (I of 1872), shall, subject to the provisions of this Act apply to all proceedings before a court-martial.

134. *Judicial notice.*—A court-martial may take judicial notice of any matter within the general military knowledge of the members.

135. *Summoning witnesses.*—(1) The convening officer, the president of a court-martial, the judge advocate or the commanding officer of the accused person, may, by summons under his hand, require the attendance, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(2) In the case of a witness amenable to military authority, the summons shall be sent to his commanding officer, and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be or reside, and such Magistrate

shall give effect to the summons as if the witness were required in the court of such Magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with reasonable precision.

136. *Documents exempted from production.*—(1) Nothing in section 135 shall be deemed to affect the operation of sections 123 and 124 of the Indian Evidence Act, 1872 (I of 1872), or to apply to any letter, postcard, telegraph or other document in the custody of the postal or telegraph authorities.

(2) If any document in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Sessions, wanted for the purpose of any court-martial, such Magistrate or Court may require the postal or telegraph authorities, as the case may be to deliver such document to such person as such Magistrate or Court may direct.

(3) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause search to be made for and to detain such document pending the order of any such District Magistrate, Chief Presidency Magistrate or Court.

137. *Commissions for examination of witnesses.*—(1) Whenever, in the course of a trial by court-martial, it appears to the court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstance of the case, would be unreasonable, such court may address the judge advocate general in order that a commission to take the evidence of such witness may be issued.

(2) The judge advocate general may then, if he thinks necessary, issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) The Magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under the Code of Criminal Procedure, 1898 (Act V of 1898), or any corresponding law in force in an Acceding State.

(4) When the witness resides in a tribal area or in any place outside India, the commission may be issued in the manner specified in Chapter XL of the Code of Criminal Procedure, 1898 (Act V of 1898), or of any corresponding law in force in an Acceding State.

(5) In this and the next succeeding section, the expression "judge advocate general" includes a deputy judge advocate general.

138. *Examination of a witness on commission.*—(1) The prosecutor and the accused person in any case in which a commission is issued under section 137 may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the Magistrate or officer executing the commission shall examine the witness upon such interrogatories.

(2) The prosecutor and the accused person may appear before such Magistrate or officer by counsel or, except in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine, as the case may be, the said witness.

(3) After a commission issued under section 137 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the judge advocate general.

(4) On receipt of a commission and deposition returned under sub-section (3), the judge advocate general shall forward the same to the court at whose instance the commission was issued or, if such court has been dissolved, to any other court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to inspection by the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

(5) In every case in which a commission is issued under section 137, the trial may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

139. *Conviction of offence not charged.*—(1) A person charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave.

(2) A person charged before a court-martial with attempting to desert may be found guilty of being absent without leave.

(3) A person charged before a court-martial with using criminal force may be found guilty of assault.

(4) A person charged before a court-martial with using threatening language may be found guilty of using insubordinate language.

(5) A person charged before a court-martial with any one of the offences specified in clauses (a), (b), (c) and (d) of section 52 may be found guilty of any other of these offences with which he might have been charged.

(6) A person charged before a court-martial with an offence punishable under section 69 may be found guilty of any other offence of which he might have been found guilty if the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), were applicable.

(7) A person charged before a court-martial with any offence under this Act, may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment.

(8) A person charged before a court-martial with any offence under this Act may be found guilty of having attempted or abetted the commission of that offence, although the attempt or abetment is not separately charged.

140. *Presumption as to signatures.*—In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the service of the Government shall, on production, be presumed to have been duly signed by the person by whom and in the character in which it purports to have been signed, until the contrary is shown.

141. *Enrolment paper.*—(1) Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given.

(2) The enrolment of such person may be proved by the production of the original or a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper.

142. *Presumption as to certain documents.*—(*1*) A letter, return or other document respecting the service of any person in, or the cashiering, dismissal or discharge of any person from, any portion of the regular Army, or respecting the circumstances of any person not having served in, or belonged to, any portion of the Forces, if purporting to be signed by or on behalf of the Central Government or the Commander-in-Chief, or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document.

(*2*) An Army, Navy or Air Force List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers, junior commissioned officers or warrant officers therein mentioned, and of any appointment held by them and of the corps, battalion or arm or branch of the services to which they belong.

(*3*) Where a record is made in any regimental book in pursuance of this Act or of any rules made thereunder or otherwise in pursuance of military duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts therein stated.

(*4*) A copy of any record in any regimental book purporting to be certified to be a true copy by the officer having custody of such book shall be evidence of such record.

(*5*) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of any officer or other person subject to this Act, or any portion of the regular Army, or has been apprehended by such officer or person, a certificate purporting to be signed by such officer, or by the commanding officer of that portion of the regular Army, or by the commanding officer of the corps, department or detachment to which such person belongs, as the case may be, and stating the fact, date and place of such surrender or apprehension, and the manner in which he was dressed, shall be evidence of the matters so stated.

(*6*) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a police officer not below the rank of an officer in charge of a police station, a certificate purporting to be signed by such police officer and stating the fact, date and place of such surrender or apprehension and the manner in which he was dressed shall be evidence of the matters so stated.

(*7*) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report may be used as evidence in any proceeding under this Act.

143. *Reference by accused to Government officer.*—(*1*) If at any trial for desertion or absence without leave, overstaying leave or not rejoining when warned for service, the person tried states in his defence any sufficient or reasonable excuse for his unauthorised absence, and refers in support thereof to any officer in the service of the Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the Court shall address such officer and adjourn the proceedings until his reply is received.

(*2*) The written reply of any officer so referred to shall, if signed by him be received in evidence and have the same effect as if made on oath before the court.

(*3*) If the court is dissolved before the receipt of such reply, or if the court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial.

144. *Evidence of previous convictions and general character.*—(*1*) When any person subject to this Act has been convicted by a court-martial of any offence, such court-martial may inquire into, and receive and record evidence of any previous convictions of such person, either by a court-martial or by a criminal court, or any previous award of punishment under any of the sections 80, 83, 84 and 85, and may further inquire into and record the general character of such person and such other matters as may be prescribed.

(*2*) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, court-martial books or other official records; and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(*3*) At a summary court-martial the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may be prescribed, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this section.

145. *Lunacy of accused.*—(*1*) Whenever, in the course of a trial by a court-martial, it appears to the court that the person charged is by reason of unsoundness of mind incapable of making his defence, or that he committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or knowing that it was wrong or contrary to law, the court shall record a finding accordingly.

(*2*) The president of the court, or, in the case of a summary court-martial, the officer holding the trial, shall forthwith report the case to the confirming officer, or to the authority empowered to deal with its finding under section 162, as the case may be.

(*3*) The confirming officer to whom the case is reported under sub-section (*2*) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another court-martial for the offence with which he was charged.

(*4*) The authority to whom the finding of a summary court-martial is reported under sub-section (*2*), and a confirming officer confirming a finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner and shall report the case for the orders of the Central Government.

(*5*) On receipt of a report under sub-section (*4*) the Central Government may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

146. *Subsequent fitness of lunatic accused for trial.*—Where any accused person having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention under section 145, the officer commanding the army, army corps, division or brigade within the area of whose command the accused is in custody or is detained, or any other officer prescribed in this behalf, may—

(*a*) if such person is in custody under sub-section (*4*) of section 145, on the report of a medical officer that he is capable of making his defence, or

(*b*) if such person is detained in a jail under sub-section (*5*) of section 145, on a certificate of the Inspector-General of Prisons, and if such person is detained in a lunatic asylum under the said sub-section on a certificate of any two or more of the visitors of such asylum that he is capable of making his defence,

take steps to have such person tried by the same or another court-martial for the offence with which he was originally charged or, if the offence is a civil offence, by a criminal court.

147. *Transmission to Central Government of orders under section* 146.—A copy of every order made by an officer under section 146 for the trial of the accused shall forthwith be sent to the Central Government.

148. *Release of lunatic accused.*—Where any person is in custody under sub-section (*4*) of section 145 or under detention under sub-section (*5*) of that section—

(*a*) if such person is in custody under the said sub-section (*4*), on the report of a medical officer, or

(*b*) if such person is detained under the said sub-section (*5*), on a certificate from any of the authorities mentioned in clause (*b*) of section 146 that, in the judgment of such officer or authority such person may be released without danger of his doing injury to himself or to any other person,

the Central Government may order that such person be released or detained in custody, or transferred to a public lunatic asylum if he has not already been sent to such an asylum.

149. *Delivery of lunatic accused to relatives.*—Where any relative or friend of any person who is in custody under sub-section (*4*) of section 145 or under detention under sub-section (*5*) of that section desires that he should be delivered to his care and custody, the Central Government may upon application by such relative or friend and on his giving security to the satisfaction of that Government that the person delivered shall be properly taken care of and prevented from doing injury to himself or any other person, and be produced for the inspection of such officer, and at such times and places, as the Central Government may direct, order such person to be delivered to such relative or friend.

150. *Order for custody and disposal of property pending trial.*—When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a court-martial during a trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

151. *Order for disposal of property regarding which offence is committed.*—(*1*) After the conclusion of a trial before any court-martial, the court or the officer confirming the finding or sentence of such court-martial, or any authority superior to such officer, or, in the case of a court-martial whose finding or sentence does not require confirmation, the officer commanding the army, army corps, division or brigade within which the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(*2*) Where any order has been made under sub-section (*1*) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within India or not, be sent to a Magistrate within whose jurisdiction such property for the time being is situated, and such Magistrate shall thereupon cause the order to be carried into effect as if it were an order passed by him under the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), or any corresponding law in force in an Acceding State.

(3) In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any person but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

152. *Powers of court-martial in relation to proceedings under this Act.*—Any trial by a court-martial under the provisions of this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860), and the court-martial shall be deemed to be a Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

## CHAPTER XII

### Confirmation and Revision

153. *Finding and sentence not valid, unless confirmed.*—No finding or sentence of a general, district or summary general, court-martial shall be valid except so far as it may be confirmed as provided by this Act.

154. *Power to confirm finding and sentence of general court-martial.*—The findings and sentences of general courts-martial may be confirmed by the Central Government, the Commander-in-Chief or by any officer empowered in this behalf by warrant of the Commander-in-Chief.

155. *Power to confirm finding and sentence of district court-martial.*—The findings and sentences of district courts-martial may be confirmed by any officer having power to convene a general court-martial or by any officer empowered in this behalf by warrant of such officer.

156. *Limitation of powers of confirming authority.*—A warrant issued under section 154 or section 155 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

157. *Power to confirm finding and sentence of summary general court-martial.*—The findings and sentences of summary general courts-martial may be confirmed by the convening officer or if he so directs, by an authority superior to him.

158. *Power of confirming authority to mitigate, remit or commute sentences.*—(1) Subject to such restrictions, reservations or conditions as may be contained in any warrant issued under section 154 or section 155 and to the provision of sub-section (2), a confirming authority may, when confirming the sentence of a court-martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any punishment or punishments lower in the scale laid down in section 71.

(2) A sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the court.

159. *Confirming of findings and sentences on board a ship.*—When any person subject to this Act is tried and sentenced by a court-martial while on board a ship, the finding and sentence so far as not confirmed and executed on board the ship, may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation.

160. *Revision of finding or sentence.*—(1) Any finding or sentence of a court-martial which requires confirmation may be once revised by order of the

confirming authority and on such revision, the court, if so directed by the confirming authority, may take additional evidence.

(2) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided that, if a general court-martial, it still consists of five officers, or, if a summary general or district court-martial, of three officers.

161. *Finding and sentence of a summary court-martial.*—(1) Save as otherwise provided in sub-section (2), the finding and sentence of a summary court-martial shall not require to be confirmed, but may be carried out forthwith.

(2) If the officer holding the trial is of less than five years service, he shall not, except on active service, carry into effect any sentence until it has received the approval of an officer commanding not less than brigade.

162. *Transmission of proceedings of summary courts-martial.*—The proceedings of every summary court-martial shall without delay be forwarded to the officer commanding the division or brigade within which the trial was held, or to the prescribed officer; and such officer, or the Commander-in-Chief, or any officer empowered in this behalf by the Commander-in-Chief, may, for reasons based on the merits of the case, but not any merely technical grounds, set aside the proceedings or reduce the sentence to any other sentence which the court might have passed.

163. *Substitution of a valid finding or sentence for an invalid finding or sentence.*—(1) Where a finding of guilty by a court-martial, which has been confirmed, or which does not require confirmation, is found for any reason to be invalid or cannot be supported by the evidence, the authority which would have had power under section 179 to commute the punishment awarded by the sentence, if the finding had been valid, may substitute a new finding and pass a sentence for the offence specified or involved in such finding:

Provided that no such substitution shall be made unless such finding could have been validly made by the court-martial on the charge and unless it appears that the court-martial must have been satisfied of the facts establishing the said offence.

(2) Where a sentence passed by a court-martial which has been confirmed, or which does not require confirmation, not being a sentence passed in pursuance of a new finding substituted under sub-section (1), is found for any reason to be invalid, the authority referred to in sub-section (1) may pass a valid sentence.

(3) The punishment awarded by a sentence passed under sub-section (1) or sub-section (2) shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by, the sentence for which a new sentence is substituted under this section.

(4) Any finding substituted, or any sentence passed, under this section shall, for the purposes of this Act and the rules made thereunder, have effect as if it were a finding or sentence, as the case may be, of a court-martial.

164. *Remedy against finding and sentence of court-martial.*—(1) Any person subject to this Act who consider himself aggrieved by a finding or sentence of a general, district or summary general court-martial may forward a petition, if before confirmation of such finding or sentence, to the authority or officer

empowered to confirm it, and if after confirmation to the Central Government, the Commander-in-Chief, or any prescribed officer, provided that such officer is superior in command to the one who confirmed such finding or sentence.

(2) Any person subject to this Act who considers himself aggrieved by a finding or sentence of a summary court-martial may forward a petition to the Central Government, the Commander-in-Chief or any officer empowered to act under section 162.

165. *Annulment of proceedings.*—The Central Government, the Commander-in-Chief or any prescribed officer may annul the proceedings of any court-martial on the ground that they are illegal or unjust.

## CHAPTER XIII

### Execution of Sentences

166. *Form of sentence of death.*—In awarding a sentence of death a court-martial shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

167. *Commencement of sentence of transportation or imprisonment.*—Whenever any person is sentenced by a court-martial under this Act to transportation or imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the president or, in the case of a summary court-martial, by the court.

168. *Execution of sentence of transportation.*—Whenever any sentence of transportation is passed under this Act or whenever any sentence of death is commuted to transportation, the commanding officer of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the civil prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

169. *Execution of sentence of imprisonment.*—(1) Whenever any sentence of imprisonment is passed under this Act by a court-martial or whenever any sentence of death or transportation is commuted to imprisonment, the confirming officer or in case of a summary court-martial the officer holding the court or such other officer as may be prescribed, shall, save as otherwise provided in sub-sections (3) and (4), direct either that the sentence shall be carried out by confinement in a military prison or that it shall be carried out by confinement in a civil prison.

(2) When a direction has been made under sub-section (1) the commanding officer of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

(3) In the case of a sentence of imprisonment for a period not exceeding three months and passed under this Act by a court-martial, the appropriate officer under sub-section (1) may direct that the sentence shall be carried out by confinement in military custody instead of in a civil or military prison.

(4) On active service, a sentence of imprisonment may be carried out by confinement in such place as the officer commanding the forces in the field may from time to time appoint.

170. *Temporary custody of offender.*—Where a sentence of transportation or imprisonment is directed to be undergone in a civil prison the offender may be kept in a military prison or in military custody or in any other fit place, till such time as it is possible to send him to a civil prison.

171. *Execution of sentence of imprisonment in special cases.*—Whenever, in the opinion of an officer commanding an army, army corps, division or independent brigade, any sentence or portion of a sentence of imprisonment cannot for special reasons, conveniently be carried out in a military prison or in military custody in accordance with the provisions of section 169 such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

172. *Conveyance of prisoner from place to place.*—A person under sentence of transportation or imprisonment may during his conveyance from place to place, or when on board ship, aircraft, or otherwise, be subjected to such restraint as is necessary for his safe conduct and removal.

173. *Communication of certain orders to prison officers.*—Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil or military prison, a warrant in accordance with such order shall be forwarded by the officer making the order or his staff officer or such other person as may be prescribed to the officer in charge of the prison in which such person is confined.

174. *Execution of sentence of fine.*—When a sentence of fine is imposed by a court-martial under section 69 whether the trial was held within India or not, a copy of such sentence, signed and certified by the confirming officer, or where no confirmation is required, by the officer holding the trial may be sent to any Magistrate in India, and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), or any corresponding law in force in an Acceding State, for the levy of fines as if it were a sentence of fine imposed by such Magistrate.

175. *Establishment and regulation of military prisons.*—The Central Government may set apart any building or part of a building, or any place under its control, as a military prison for the confinement of persons sentenced to imprisonment under this Act.

176. *Informality or error in the order or warrant.*—Whenever any person is sentenced to transportation or imprisonment under this Act, and is undergoing the sentence in any place or manner in which he might be confined under a lawful order or warrant in pursuance of this Act, the confinement of such person shall not be deemed to be illegal only by reason of any informality or error in or as respects the order, warrant or other document, or the authority by which, or in pursuance whereof such person was brought into or is confined in any such place, and any such order, warrant or document may be amended accordingly.

177. *Power to make rules in respect of prisons and prisoners.*—The Central Government may make rules providing—

(*a*) for the government, management and regulation of military prisons;

(*b*) for the appointment, removal and powers of inspectors, visitors, governors and officers thereof;

(*c*) for the labour of prisoners undergoing confinement therein, and for enabling persons to earn, by special industry and good conduct, a remission of a portion of their sentence;

(*d*) for the safe custody of prisoners and the maintenance of discipline among them and the punishment, by personal correction, restraint or otherwise, of offences committed by prisoners;

(*e*) for the application to military prisons of any of the provisions of the Prisons Act, 1894 (IX of 1894), relating to the duties of officers of prisons and the punishment of persons not being prisoners.

178. *Restriction of rule-making power in regard to corporal punishment.*—Rules made under section 177 shall not authorise corporal punishment to be inflicted for any offence, nor render the imprisonment more severe than it is under the law for the time being in force relating to civil prisons.

## CHAPTER XIV

### Pardons, Remissions and Suspensions

179. *Pardon and remission.*—When any person subject to this Act has been convicted by a court-martial of any offence, the Central Government or the Commander-in-Chief or, in the case of a sentence, which he could have confirmed or which did not require confirmation, the officer commanding the army, army corps, division or independent brigade in which such person at the time of conviction was serving, or the prescribed officer may—

(*a*) either with or without conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded; or

(*b*) mitigate the punishment awarded; or

(*c*) commute such punishment for any less punishment or punishments mentioned in this Act:

Provided that a sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the court; or

(*d*) either with or without conditions which the person sentenced accepts, release the person on parole.

180. *Cancellation of conditional pardon, release on parole or remission.*—(*1*) If any condition on which a person has been pardoned or released on parole or a punishment has been remitted is, in the opinion of the authority which granted the pardon, release or remission, not fulfilled, such authority may cancel the pardon, release or remission, and thereupon the sentence of the court shall be carried into effect as if such pardon, release or remission had not been granted.

(*2*) A person whose sentence of transportation or imprisonment is carried into effect under the provisions of sub-section (*1*) shall undergo only the unexpired portion of his sentence.

181. *Reduction of warrant officer or non-commissioned officer.*—When under the provisions of section 77 a warrant officer or a non-commissioned officer is deemed to be reduced to the ranks, such reduction shall, for the purpose of section 179 be treated as a punishment awarded by a sentence of a court-martial.

182. *Suspension of sentence of transportation or imprisonment.*—(*1*) Where a person subject to this Act is sentenced by a court-martial to transportation or imprisonment, the Central Government, the Commander-in-Chief or any officer empowered to convene a general or a summary general court-martial may suspend the sentence whether or not the offender has already been committed to prison or to military custody.

(*2*) The authority or officer specified in sub-section (*1*) may in the case of an offender so sentenced direct that, until the orders of such authority or officer have been obtained the offender shall not be committed to prison or to military custody.

(*3*) The powers conferred by sub-sections (*1*) and (*2*) may be exercised in the case of any such sentence which has been confirmed, reduced or commuted.

183. *Orders pending suspension.*—(*1*) Where the sentence referred to in section 182 is imposed by a court-martial other than a summary court-martial, the confirming officer may, when confirming the sentence, direct that the offender be not committed to prison or to military custody until the orders of the authority or officer specified in section 182 have been obtained.

(*2*) Where a sentence of imprisonment is imposed by a summary court-martial, the officer holding the trial or the officer authorised to approve of the sentence under sub-section (*2*) of section 161 may make the direction referred to in sub-section (*1*).

184. *Release on suspension.*—Where a sentence is suspended under section 182, the offender shall forthwith be released.

185. *Computation of period of suspension.*—Any period during which the sentence is under suspension shall be reckoned as part of the term of such sentence.

186. *Order after suspension.*—The authority or officer specified in section 182 may, at any time while a sentence is suspended, order—

(*a*) that the offender be committed to undergo the unexpired portion of the sentence, or

(*b*) that the sentence be remitted.

187. *Reconsideration of case after suspension.*—(*1*) Where a sentence has been suspended, the case may at any time, and shall at intervals of not more than four months, be reconsidered by the authority or officer specified in section 182, or by any general or other officer not below the rank of field officer duly authorised by the authority or officer specified in section 182.

(*2*) Where on such reconsideration by the officer so authorised it appears to him that the conduct of the offender since his conviction has been such as to justify a remission of the sentence, he shall refer the matter to the authority or officer specified in section 182.

188. *Fresh sentence after suspension.*—Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then—

(*a*) if the further sentence is also suspended under this Act, the two sentences shall run concurrently;

(*b*) if the further sentence is for a period of three months or more and is not suspended under this Act, the offender shall also be committed to prison or military custody for the unexpired portion of the previous sentence, but both sentences shall run concurrently; and

(*c*) if the further sentence is for a period of less than three months and is not suspended under this Act, the offender shall be so committed on that sentence only, and the previous sentence shall, subject to any order which may be passed under section 186 or section 187, continue to be suspended.

189. *Scope of power of suspension.*—The powers conferred by sections 182 and 186 shall be in addition to and not in derogation of the power of mitigation, remission and commutation.

190. *Effect of suspension and remission on dismissal.*—(*1*) Where in addition to any other sentence the punishment of dismissal has been awarded by a court-martial, and such other sentence is suspended under section 182, then, such dismissal shall not take effect until so ordered by the authority or officer specified in section 182.

(2) If such other sentence is remitted under section 186, the punishment of dismissal shall also be remitted.

## CHAPTER XV

### RULES

191. *Power to make rules.*—(1) The Central Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the power conferred by sub-section (1), the rules made thereunder may provide for—

(a) the removal, retirement, release or discharge from the service of persons subject to this Act;

(b) the amount and incidence of fines to be imposed under section 89;

(c) the specification of the punishments which may be awarded as field punishments under sections 75 and 80;

(d) the assembly and procedure of courts of inquiry, the recording of summaries of evidence and the administration of oaths or affirmations by such courts;

(e) the convening and constituting of courts-martial;

(f) the adjournment, dissolution and sitting of courts-martial;

(g) the procedure to be observed in trials by courts-martial and the appearance of legal practitioners thereat;

(h) the confirmation, revision and annulment of, and petitions against, the findings and sentences of courts-martial;

(i) the carrying into effect sentences of courts-martial;

(j) the forms of orders to be made under the provisions of this Act relating to courts-martial, transportation and imprisonment;

(k) the constitution of authorities to decide for what persons, to what amounts and in what manner, provision should be made for dependants under section 99, and the due carrying out of such decisions;

(l) the relative rank of the officers, junior commissioned officers, warrant officers, petty officers and non-commissioned officers of the regular Army, Navy and Air Force when acting together;

(m) any other matter directed by this Act to be prescribed.

192. *Power to make regulations.*—The Central Government may make regulations for all or any of the purposes of this Act other than those specified in section 191.

192. *Power to make regulations.*—The Central Government may make regulations for all or any of the purposes of this Act other than those specified in section 191.

194. *Repeals.*—The Acts and Ordinances mentioned in the Schedule are hereby repealed.

## CHAPTER XVI

### TRANSITORY PROVISIONS

195. *Definition of "British officer".*—(1) In this Chapter "British officer" means a person of non-Indian domicile holding a commission in His Majesty's Land Forces or in the Royal Marines or in the Territorial Army and serving in the regular Army.

(2) The expression "superior officer" in this Act shall be deemed to include a British officer.

196. *Powers of British officer.*—A British officer shall have all the powers conferred by this Act on an officer of corresponding rank or holding a corresponding appointment.

## THE SCHEDULE

(*See* section 194.)

| Year | No. | Short title | Extent of repeal |
|---|---|---|---|
| 1911 | VIII | The Indian Army Act, 1911. | The whole, except Chapter XII. |
| 1920 | XX | The Indian Army (Suspension of Sentences) Act, 1920. | The whole |
| 1941 | X | The Active Service Ordinance, 1941. | The whole |
| 1943 | XXXVI | The Prisoners of War (Forfeiture of Emoluments) Ordinance, 1943. | The whole |

## STATEMENT OF OBJECTS AND REASONS.

The need for a general revision of the three Acts, namely, the Indian Army Act, 1911, the Indian Navy Discipline Act, 1934 and the Indian Air Force Act, 1932, has been felt for some time past. Some of the provisions of the existing Acts were already becoming out of date and insufficient for modern requirements, but after the 15th August, 1947, the need for revision became imperative for obvious reasons. It was, therefore, decided to revise all the three Acts with a view to making them self-sufficient and complete codes in themselves. The object was to make them as closely similar in form and arrangement of matter as the special requirements of each service might demand.

2. Although the revision of the Army and the Air Force Acts has been completed, this has not been possible in the case of the Naval Act. The present Naval Discipline Act is modelled on the corresponding British Act which, due mainly to the peculiar traditions of the British Navy, is materially different in many respects from the British Army and Air Force Acts. The revision of the Naval Discipline Act has, therefore, proved a more difficult problem. In the United Kingdom, a special Committee has been appointed to examine the question of revision of the British Naval Act. It was felt that it would be an advantage to await the report of that Committee and benefit by its recommendations. The revision of the Naval Discipline Act has, therefore, been suspended for the present. It is expected that the Committee's report will be available within the next few months, after which the revision of the Naval Discipline Act will be taken up. It is, however, not considered necessary to delay the revision of the Army and Air Force Acts any longer and they are therefore being introduced during this session of the Legislature.

3. The main objects of the revision of the Army Act are—

(*a*) to make it self-sufficient by incorporating the relevant provisions from certain other related enactments;

(*b*) to adapt the existing provisions to suit the new constitutional set up and present day requirements; and

(c) on the one hand, to bridge the gap between the Army and the Civil Laws as far as possible in the matter of punishments for offences and, on the other, to eliminate the disparity between the corresponding provisions of the law governing the Army and the Air Force.

4. The following are some of the more important objects sought to be achieved :—

(1) The chapter on punishments required to be rationalised. The Indian Army Act, 1911 is, on the one hand, unduly severe in certain punishments and, on the other, inadequate in its enumeration of offences. It also differs considerably from the Indian Air Force Act, 1932, in regard to the scale of punishments for a number of offences. The maximum punishment as now prescribed in the draft Bills varies with each offence or group of offences as in the Indian Penal Code and other penal laws of the country and is in keeping with the gravity of the offence or offences. An attempt has also been made in the Bill to grade punishments according to the gravity of the offences in different conditions, punishments being naturally more severe, for instance, in the case of offences committed wilfully or while on active service.

(2) Provision has been made in the Bill for the Indian States forces becoming subject to the Army Act; exclusion of aliens from service except with the consent of the Central Government; grant of commissions to officers; tenure of service at the pleasure of the Governor-General; and safeguards against improper arrest and detention of accused persons before trial. Provisions have been made for minimising chances of injustice at Courts-martial and, at the same time, for enhancing the status and thereby the responsibility of these courts.

(3) While absolute uniformity is neither possible nor desirable, glaring inequalities have been removed where possible, from the Army and the Air Force Acts. The Bills have been made identical in form, arrangement and matter with necessary variations in terminology and with such special provisions as were found essential.

(4) The provisions of subsidiary enactments like the Indian Army (Suspension of Sentences) Act, 1920, and Ordinances Nos. XXXVI of 1943 and XXXVII of 1945 relating to penal deductions of pay and allowances of prisoners of war have been incorporated in the new Army Bill.

(5) Sections relating to the estates of deceased persons, deserters and lunatics in the Army and Air Force Acts have been omitted. These will form the subject of a separate Bill, common to both the Services.

BALDEV SINGH.

NEW DELHI;
*The 16th December,* 1949.

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The following Bills were introduced in the Constituent Assembly of India, (Legislative) on the 22nd December, 1949 :—

A. BILL NO. 84 OF 1949

*A Bill to prevent the improper use of certain emblems and names for professional and commercial purposes.*

WHEREAS it is expedient to prevent the improper use of certain emblems and names for professional and commercial purposes;

It is hereby enacted as follows :—

1. *Short title, extent, application and commencement.*—(1) This Act may be called the Emblems and Names (Prevention of Improper Use) Act, 1949.

(2) It extends to all the Provinces of India and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act, and applies to citizens of India, wherever they may be.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "emblem" means any emblem, seal, flag, insignia, coat-of-arms or pictorial representation specified in the Schedule;

(b) "competent authority" means any authority competent under any law for the time being in force to register any company, firm or other body of persons or any trade mark or design or to grant a patent;

(c) "name" includes any abbreviation of a name.

3. *Prohibition of improper use of certain emblems and names.*—Notwithstanding anything contained in any law for the time being in force, no person shall use, or continue to use, for the purpose of any trade, business, calling or profession, or in the title of any patent, or in any trade mark or design, any name or emblem specified in the Schedule or any colourable imitation thereof without the previous permission of the Central Government.

4. *Prohibition of registration of certain companies, etc.*—(1) Notwithstanding anything contained in any law for the time being in force, no competent authority shall,—

(a) register any company, firm or other body of persons which bears any name, or

(b) register a trade mark or design which bears any emblem or name, or

(c) grant a patent in respect of an invention which bears a title containing any emblem or name,

if the use of such name or emblem is in contravention of section 3.

(2) If any question arises before a competent authority whether any emblem is an emblem specified in the Schedule or a colourable imitation thereof, the competent authority may refer the question to the Central Government, and the decision of the Central Government thereon shall be final.

5. *Penalty.*—Any person who contravenes the provisions of section 3 shall be punishable with fine which may extend to two hundred rupees.

6. *Previous sanction for prosecution.*—No prosecution for any offence punishable under this Act shall be instituted, except with the previous sanction of the Central Government or of any officer authorised in this behalf by general or special order of the Central Government.

7. *Savings.*—Nothing in this Act shall exempt any person from any suit or other proceeding which might, apart from this Act, be brought against him.

8. *Power of the Central Government to amend the Schedule.*—The Central Government may, by notification in the official Gazette, add to or alter the Schedule, and any such addition or alteration shall have effect as if it had been made by this Act.

## THE SCHEDULE

[*See* sections 2 (*a*) and 3.]

1. The name, emblem or official seal of the United Nations Organization.

2. The name, emblem or official seal of the World Health Organization.

3. The Indian National Flag.
4. The name or pictorial representation of Mahatma Gandhi.
5. The official seal or emblem of the Government of India or of any Province or Acceding State, or any other insignia or coat-of-arms used by any such Government or by a Department of any such Government.

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## STATEMENT OF OBJECTS AND REASONS

The General Assembly of the United Nations Organisation recommended in 1946 that members of the United Nations should take necessary legislative or other appropriate measures to prevent the use, without proper authority, and in particular for commercial purposes, of the emblem, the official seal and the name of the United Nations and of the abbreviations of that name. A similar recommendation has since been received also from the World Health Organisation for prevention of the use of its name (and abbreviations), emblem and official seal. Instances have also come to light of the use in India (and abroad) of the Indian National Flag and emblem and of the names and pictorial representations of Mahatma Gandhi and other national leaders, for commercial and trade purposes and in a manner likely to offend the sentiments of the people. The provisions of the Indian Trade Marks Act, 1940, Indian Patents and Designs Act, 1911, Indian Merchandise Marks Act, 1889, and the Indian Companies Act, 1913, are not adequate to prevent these abuses. The Bill seeks to prevent the improper use of these names, emblems, etc., for the purpose of trade, business, calling, profession, patent or design, and to impose a penalty for misuse of emblems, etc., specified in the Schedule and empowers the Central Government to make additions and amendments in the Schedule, as and when necessary.

NEW DELHI; K. C. NEOGY.
*The 9th December*, 1949.

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A. BILL NO. 85 OF 1949

*A Bill to consolidate and amend the law relating to the government of the Air Force.*

WHEREAS it is expedient to consolidate and amend the law ralating to the government of the Air Force;

It is hereby enacted as follows:—

## CHAPTER I

### PRELIMINARY

1. *Short title and commencement.*—(*1*) This Act may be called the Air Force Act, 1949.

(*2*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. *Persons subject to this Act.*—The following persons shall be subject to this Act wherever they may be, namely:—

(*a*) officers and warrant officers of the Air Force;

(*b*) persons enrolled under this Act;

(*c*) persons belonging to the Indian Air Force Volunteer Reserve in the circumstances specified in section 3 of the Indian Air Force Volunteer Reserve (Discipline) Act, 1939 (XXXVI of 1939);

(*d*) persons not otherwise subject to air force law, who, on active service, in camp, on the march, or at any frontier post specified by the Central Government by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of the Air Force.

3. *Termination of application of the Act.*—Every person subject to this Act shall remain so subject until duly retired, discharged, released, removed, dismissed or cashiered from the service.

4. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(*i*) "active service", as applied to a person subject to this Act, means the time during which such person—

(*a*) is attached to, or forms part of, a force which is engaged in operations against an enemy, or

(*b*) is engaged in air force operations in, or is on the line of march to, a country, or place wholly or partly occupied by an enemy, or

(*c*) is in military occupation of any foreign country;

(*ii*) "aircraft" includes aeroplanes, balloons, kite balloons, airships, gliders or other machines for flying;

(*iii*) "aircraft material" includes any engines, fittings, guns, gear, instruments or apparatus for use in connection with aircraft, and any of its components and accessories and petrol oil, and any other substance used for providing motive power for planes;

(*iv*) "Air Force" means officers and airmen who by their commission, warrant, terms of enrolment or otherwise, are liable to render continuously for a term air force service to the Union in every part of the world or any specified part of the world, including persons belonging to the Indian Air Force Volunteer Reserve when called out on permanent service;

(*v*) "air force custody" means the arrest or confinement of a person according to the usages of the service and includes military or naval custody;

(*vi*) "air force law" means the law enacted by this Act and the rules made thereunder;

(*vii*) "air force reward" includes any gratuity or annuity for long service or good conduct, any good conduct pay, good service pay or pension, and any other air force pecuniary reward;

(*viii*) "airman" means any person subject to this Act other than an officer;

(*ix*) "air officer" means any officer of the Air Force above the rank of group captain;

(*x*) "air signal" means any signal intended for the guidance of aircraft, whether given by flag, ground signal, light, wind indicator or in any manner whatsoever;

(*xi*) "civil offence" means an offence which is triable by a criminal court;

(*xii*) "Commander-in-Chief" means the officer commanding-in-chief the Air Force;

(*xiii*) "commanding officer," used in relation to a person subject to this Act, means the officer for the time being in command of the unit or detachment to which such person belongs or is attached;

(*xiv*) "court-martial" means a court-martial held under this Act;

(*xv*) "criminal court" means a court of ordinary criminal justice in any part of India, other than the State of Jammu and Kashmir;

(*xvi*) "enemy" includes all armed mutineers, armed rebels, armed rioters, pirates and any person in arms against whom it is the duty of any person subject to air force law to act;

(*xvii*) "the Forces" means the regular Army, Navy and Air Force or any part of any one or more of them;

(*xviii*) "non-commissioned officer" means a non-commissioned officer or acting non-commissioned officer of the Air Force or of the Indian Air Force Volunteer Reserve who is for the time being subject to this Act;

(*xix*) "notification" means a notification published in the official Gazette;

(*xx*) "offence" means any act or omission punishable under this Act, and includes a civil offence, as hereinbefore defined;

(*xxi*) "officer" means a person commissioned, gazetted or in pay as an officer in the Air Force, and includes—

(*a*) an officer holding His Majesty's Commission in the Air Force;

(*b*) an officer of the Indian Air Force Volunteer Reserve who is for the time being subject to this Act;

(*c*) in relation to a person subject to this Act when serving under such conditions as may be prescribed, an officer of the regular Army or the Navy;

but does not include a junior commissioned officer, warrant officer, petty officer or non-commissioned officer;

(*xxii*) "prescribed" means prescribed by rules made under this Act;

(*xxiii*) "provost-marshal" includes any of his deputies or assistants or any other person legally exercising authority under him or on his behalf;

(*xxiv*) "regulation" includes a regulation made under this Act;

(*xxv*) "superior officer", when used in relation to a person subject to this Act, includes a warrant officer and a non-commissioned officer, and as regards persons placed under his orders, an officer, junior commissioned officer, warrant officer, petty officer and non-commissioned officer of the regular Army or the Navy;

(*xxvi*) "unit" includes—

(*a*) any body of officers and airmen for which a separate authorised establishment exists;

(*b*) any separate body of persons subject to this Act employed on any service and not attached to a unit as aforesaid;

(*c*) any other separate body of persons composed wholly or partly of persons subject to this Act, and specified as a unit by the Central Government;

(*xxvii*) "warrant officer" means a person appointed, gazetted or in pay as a warrant officer of the Air Force and includes an acting warrant officer, a master warrant officer, and a warrant officer of the Indian Air Force Volunteer Reserve who is for the time being subject to this Act;

(*xxviii*) all words and expressions used herein and defined in the Indian Penal Code (Act XLV of 1860) and not hereinbefore defined, shall be deemed to have meanings respectively assigned to them by that Code.

## CHAPTER II

### Special Provisions for the application of Act in certain cases

5. *Application of Act to certain forces under the Central Government.*—(*1*) The Central Government may, by notification, apply all or any of the provisions of this Act to any force raised and maintained in India under the authority of that Government and suspend the operation of any other enactment for the time being applicable to the said force.

(*2*) The provisions of this Act so applied shall have effect in respect of persons belonging to the said force as they have effect in respect of persons subject to this Act holding in the Air Force the same or equivalent rank as the aforesaid persons hold for the time being in the said force.

(*3*) The provisions of this Act so applied shall also have effect in respect of persons who are employed by, or are in the service of, or are followers of, or accompany any portion of the said force as they have effect in respect of persons subject to this Act under clause (*d*) of section 2.

(*4*) While any of the provisions of this Act apply to the said force, the Central Government may, by notification, direct by what authority any jurisdiction, powers or duties incident to the operation of these provisions shall be exercised or performed in respect of the said force.

6. *Special provision as to rank in certain cases.*—(*1*) The Central Government may, by notification, direct that any persons or class of persons subject to this Act under clause (*d*) of section 2, shall be so subject as officers, warrant officers or non-commissioned officers, and may authorise any officer to give a like direction and to cancel such direction.

(*2*) All persons subject to this Act other than officers, warrant officers and non-commissioned officers shall, if they are not persons in respect of whom a notification or direction under sub-section (*1*) is in force, be deemed to be of a rank inferior to that of a non-commissioned officer.

7. *Commanding officer of persons subject to air force law under clause (d) of section 2.*—(*1*) Every person subject to this Act, under clause (*d*) of section 2, shall, for the purposes of this Act, be deemed to be under the commanding officer of the unit, or detachment, if any, to which he is attached, and if he is not so attached under the command of any officer who may for the time being be named as his commanding officer by the officer commanding the force with which such person may for the time being be serving, or of any other prescribed officer, or, if no such officer is named or prescribed, under the command of the said officer commanding the force.

(*2*) An officer commanding a force shall not place a person subject to this Act under clause (*d*) of section 2 under the command of an officer of official rank inferior to that of such person if there is present at the place where such person is any officer of higher rank under whose command he can be placed.

8. *Officer exercising powers in certain cases.*—(*1*) Whenever persons subject to this Act are serving under an officer commanding any air force formation not in this section specifically named, and being, in the opinion of the Central Government, not less than a Squadron, the said Government may prescribe the officer by whom the powers which, under this Act, may be exercised by officers commanding Groups, Wings and Squadrons shall, as regards such persons, be exercised.

(*2*) The Central Government may confer such powers either absolutely, or subject to such restrictions, reservations, exceptions and conditions as it may think fit.

9. *Power to declare persons to be on active service.*—Notwithstanding anything contained in clause (*i*) of section 4, the Central Government may, by notification, declare that any persons or class of persons subject to this Act shall, with reference to any area in which they may be serving or with reference to any provision of this Act or of any other law for the time being in force, be deemed to be on active service within the meaning of this Act.

## CHAPTER III

### Commission, Appointment and Enrolment

10. *Commission and appointment.*—The Governor-General may grant, to such person as he thinks fit a commission as an officer or appoint any person as a warrant officer of the Air Force;

11. *Ineligibility of aliens for enrolment.*—No person who is not a citizen of India shall, except with the consent of the Central Government signified in writing, be enrolled in the Air Force:

Provided that nothing contained in this section shall bar the enrolment of the subjects of Nepal in the Air Force.

12. *Procedure before enrolling officer.*—Upon the appearance before the prescribed enrolling officer of any person desirous of being enrolled, the enrolling officer shall read and explain to him, or cause to be read and explained to him in his presence, the conditions of the service for which he is to be enrolled; and shall put to him the questions set forth in the prescribed form of enrolment, and shall, after having cautioned him that if he makes a false answer to any such question he will be liable to punishment under this Act, record or cause to be recorded his answer to each such question.

13. *Mode of enrolment.*—If, after complying with the provisions of section 12, the enrolling officer is satisfied that the person desirous of being enrolled fully understands the questions put to him and consents to the conditions of service, and if such officer perceives no impediment, he shall sign and shall also cause such person to sign the enrolment paper, and such person shall thereupon be deemed to be enrolled.

14. *Validity of enrolment.*—Every person who has for the space of three months been in receipt of pay as a person enrolled under this Act and been borne on the rolls of any unit shall be deemed to have been duly enrolled, and shall not be entitled to claim his discharge on the ground of any irregularity or illegality in his enrolment or on any other ground whatsoever; and if any person, in receipt of such pay and borne on the rolls as aforesaid, claims his discharge before the expiry of three months from his enrolment, no such irregularity or illegality or other ground shall, until he is discharged in pursuance of his claim, affect his position as an enrolled person under this Act or invalidate any proceedings, act or thing taken or done prior to his discharge.

15. *Persons to be attested.*—The following persons shall be attested namely:—

(*a*) all persons enrolled as combatants;

(*b*) all persons selected to hold a non-commissioned or acting non-commissioned rank; and

(*c*) all other enrolled persons prescribed by the Central Government.

16. *Mode of attestation.*—(*1*) When a person who is to be attested is reported fit for duty, or has completed the prescribed period of probation, an oath or affirmation shall be administered to him in the prescribed form by his commanding officer in front of his unit or such portion thereof as may be present, or by any other prescribed person.

(2) The form of oath or affirmation prescribed under this section shall contain a promise that the person to be attested will be faithful to the Union, and that he will serve in the Air Force and go wherever he is ordered by land, sea or air, and that he will obey all commands of any officer set over him, even to the peril of his life.

(3) The fact of an enrolled person having taken the oath or affirmation directed by this section to be taken shall be entered on his enrolment paper, and authenticated by the signature of the officer administering the oath or affirmation.

17. *Application of this Act to persons governed by the Indian Air Force Act, 1932.*—Any person, holding His Majesty's commission or appointed as a warrant officer or attested or enrolled in the Indian Air Force at the date of commencement of this Act shall be deemed to have been commissioned as an officer or appointed as a warrant officer, or attested or enrolled, as the case may be, in the Air Force.

## CHAPTER IV

### Conditions of Service

18. *Tenure of service under the Act.*—Every person subject to this Act shall hold office during the pleasure of the Governor-General.

19. *Termination of service by Central Government.*—The Central Government may dismiss, or remove from the service any person subject to this Act.

20. *Dismissal, removal or reduction by Commander-in-Chief and other officers.*—(1) The Commander-in-Chief may dismiss or remove from the service any person subject to this Act other than an officer.

(2) The Commander-in-Chief may reduce to a lower grade or rank or the ranks, any warrant officer or any non-commissioned officer.

(3) An officer having power not less than a group commander or equivalent commander or any prescribed officer may dismiss or remove from the service any person serving under his command other than an officer or a warrant officer.

(4) On active service, an officer commanding the air forces in the field may reduce to a lower rank or to the ranks any warrant officer or non-commissioned officer under his command.

(5) The Commander-in-Chief or an officer specified in sub-section (3) may reduce to a lower class in the ranks any airman other than a warrant officer or non-commissioned officer.

(6) The commanding officer of an acting non-commissioned officer may order him to revert to his substantive rank as a non-commissioned officer, or if he has no such substantive rank, to the ranks.

21. *Restrictions of certain fundamental rights in their application to persons subject to this Act.*—Notwithstanding anything contained in the Constitution and save as may be otherwise provided in any rules made by the Central Government in this behalf, any person subject to this Act shall not—

(a) be a member of, or be associated in any way with, any trade union, labour union or other similar organisation;

(b) be a member of, or be associated in any way with, any society, institution, association or other body of persons which is not recognised as part of the Air Force;

(c) address any meeting, or take part in any demonstration, organised by any body of persons for any political or other purposes;

(*d*) communicate with the press or publish or cause to be published any book, letter or other document, except with the previous permission of the Central Government or of any officer specified in this behalf by the Central Government.

22. *Retirement, release or discharge.*—Any person subject to this Act may be retired, released or discharged from the service by such authority and in such manner as may be prescribed.

23. *Certificate on termination of service.*—Every warrant officer, or enrolled person who is dismissed, removed, discharged, retired or released from the service shall be furnished by his commanding officer with a certificate, in the language which is the mother tongue of such person and also in the English language setting forth—

(*a*) the authority terminating his service;

(*b*) the cause for such termination; and

(*c*) the full period of his service in the Air Force.

24. *Discharge or dismissal when out of India.*—(*1*) Any person enrolled under this Act who is entitled under the conditions of his enrolment to be discharged, or whose discharge is ordered by competent authority, and who when he is so entitled or ordered to be discharged, is serving out of India, and requests to be sent to India, shall, before being discharged, be sent to India with all convenient speed.

(*2*) Any person enrolled under this Act who is dismissed from the service and who, when he is so dismissed, is serving out of India, shall be sent to India with all convenient speed.

(*3*) Where any such person as is mentioned in sub-section (*2*) is sentenced to dismissal combined with any other punishment, such other punishment, or, in the case of a sentence of transportation, imprisonment or detention, a portion of such sentence, may be inflicted before he is sent to India.

(*4*) For the purposes of this section, the word "discharge" shall include release, and the word "dismissal" shall include removal.

## CHAPTER V

### Service Privileges

25. *Authorised deductions only to be made from pay.*—The pay of every person subject to this Act due to him as such under any regulation, for the time being in force, shall be paid without any deduction other than the deductions authorised by or under this or any other Act.

26. *Remedy of aggrieved airmen.*—(*1*) Any airman who deems himself wronged by any superior or other officer, may, if not attached to a unit or detachment, complain to the officer under whose command or orders he is serving; and may, if attached to a unit or detachment, complain to the officer commanding the same.

(*2*) When the officer complained against is the officer to whom any complaint should, under sub-section (*1*), be preferred, the aggrieved airman may complain to such officer's next superior officer, and if he thinks himself wronged by such superior officer, he may complain to the Commander-in-Chief.

(*3*) Every officer receiving any such complaint shall make as complete an investigation into it as may be possible for giving full redress to the complainant; or, when necessary, refer the complaint to superior authority.

(*4*) Every such complaint shall be preferred in such manner as may from time to time be specified by proper authority.

(*5*) A decision by the Commander-in-Chief under sub-section (*2*) shall be final.

27. *Remedy of aggrieved officers.*—Any officer who deems himself wronged by his commanding officer or any superior officer and who on due application made to his commanding officer does not receive the redress to which he considers himself entitled, may complain to the Central Government in such manner as may from time to time be specified by proper authority.

28. *Immunity from attachment.*—The arms, clothes, equipment, accoutrements or necessaries of any person subject to this Act, shall not be seized, and the pay and allowances of any such person or any part thereof shall not be attached, by direction of any civil or revenue court or any revenue officer, in satisfaction of any decree or order enforceable against him.

29. *Immunity from arrest for debt.*—(*1*) No person subject to this Act shall, so long as he belongs to the Forces, be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue officer.

(*2*) The judge of any such court or the said officer may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this section, and may, by warrant under his hand, discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(*3*) For the recovery of such costs no court-fee shall be payable by the complainant.

30. *Immunity of persons attending courts-martial from arrest.*—(*1*) No president or member of a court-martial, no judge advocate, no party to any proceeding before a court-martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial, shall while proceeding to, attending, or returning from, a court-martial, be liable to arrest under civil or revenue process.

(*2*) If any such person is arrested under any such process, he may be discharged by order of the court-martial.

31. *Privileges of reservists.*—Every person belonging to the Air Force Reserve, shall, when called out for, or engaged in or returning from, training or service, be entitled to all the privileges accorded by sections 28 and 29 to a person subject to this Act.

32. *Priority in respect of Air Force personnel's litigation.*—(*1*) On the presentation to any court by or on behalf of any person subject to this Act of a certificate, from the proper air force authority, of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such person, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

(*2*) The certificate from the proper air force authority shall state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

(*3*) No fee shall be payable to the court in respect of the presentation of any such certificate, or of any application by or on behalf of any such person, for priority for the hearing of his case.

(4) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for its inability to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(5) If in any case a question arises as to the proper air force authority qualified to grant such certificate as aforesaid, such question shall be at once referred by the court to an officer having power not less than a group commander or equivalent commander whose decision shall be final.

33. *Saving of rights and privileges under other laws.*—The rights and privileges specified in the preceding sections of this Chapter shall be in addition to any others conferred on persons subject to this Act or on members of the regular Army, Navy and Air Force generally by any other law for the time being in force.

## CHAPTER VI

### OFFENCES

34. *Offences in relation to the enemy and punishable with death.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) shamefully abandons or delivers up any garrison, fortress, post, place or guard, committed to his charge, or which it is his duty to defend, or uses any means to compel or induce any commanding officer or other person to commit the said act; or

(*b*) intentionally uses any means to compel or induce any person subject to military, naval or air force law to abstain from acting against the enemy, or to discourage such person from acting against the enemy; or

(*c*) in the presence of the enemy, shamefully casts away his arms, ammunition, tools or equipment or misbehaves in such manner as to show cowardice; or

(*d*) treacherously holds correspondence with, or communicates intelligence to, the enemy or any person in arms against the Union; or

(*e*) directly or indirectly assists the enemy with money, arms, ammunition, stores or supplies; or

(*f*) treacherously or through cowardice sends a flag of truce to the enemy; or

(*g*) in time of war or during any air force operation, intentionally occasions a false alarm in action, camp, or quarters, or spreads report calculated to create alarm or despondency; or

(*h*) in time of action leaves his commanding officer or his post guard, piquet, patrol or party without being regularly relieved or without leave; or

(*i*) having been made a prisoner of war, voluntarily serves with or aids the enemy; or

(*j*) knowingly harbours or protects an enemy not being a prisoner; or

(*k*) being a sentry in time of war or alarm, sleeps upon his post or is intoxicated; or

(*l*) knowingly does any act calculated to imperil the success of the military, naval or air forces of India or any forces co-operating therewith or any part of such forces; or

(*m*) treacherously or shamefully causes the capture or destruction by the enemy of any aircraft belonging to the Forces; or

(*n*) treacherously uses any false air signal or alters or interferes with any air signal; or

(*o*) when ordered by his superior officer or otherwise under orders to carry out any air force operations, treacherously or shamefully fails to use his utmost exertions to carry such orders into effect;

shall, on conviction by court-martial, be liable to suffer death or such less punishment as is in this Act mentioned.

35. *Offences in relation to the enemy and not punishable with death.*—Any person subject to this Act who commits any of the following offences that is to say,—

(*a*) is taken prisoner, by want of due precaution, or through disobedience of orders, or wilful neglect of duty, or having been taken prisoner, fails to rejoin his service when able to do so; or

(*b*) without due authority holds correspondence with or communicates intelligence to the enemy; or having come by the knowledge of any such correspondence or communication wilfully omits to discover it immediately to his commanding or other superior officer; or

(*c*) without due authority sends a flag of truce to the enemy; or

(*d*) negligently causes the capture or destruction by the enemy of any aircraft belonging to the Government; or

(*e*) when ordered by his superior officer, or otherwise under orders to carry out any warlike operations in the air, negligently or through other default fails to use his utmost exertions to carry such orders into effect;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

36. *Offences punishable more severely on active service than at other times.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) forces a safeguard, or forces or uses criminal force to a sentry; or

(*b*) breaks into any house or other place in search of plunder; or

(*c*) being a sentry sleeps upon his post, or is intoxicated; or

(*d*) without orders from his superior officer leaves his guard, piquet, patrol or post; or

(*e*) intentionally or through neglect occasions a false alarm in camp or quarters; or spreads reports calculated to create unnecessary alarm or despondency; or

(*f*) makes known the parole, watchword or countersign to any person not entitled to receive it; or knowingly gives a parole, watchword or countersign different from what he received; or

(*g*) without due authority alters or interferes with any air signal;

shall, on conviction by court-martial,

if he commits any such offence when on active service, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

if he commits any such offence when not on active service, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

37. *Mutiny.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) begins, incites, causes, or conspires with any other persons to cause, any mutiny in the military, naval or air forces of India or any forces co-operating therewith; or

(*b*) joins in any such mutiny; or

(*c*) being present at any such mutiny, does not use his utmost endeavours to suppress the same; or

(*d*) knowing or having reason to believe in the existence of any such mutiny, or of any intention to commit such mutiny or any such conspiracy, does not, without delay, give information thereof to his commanding or other superior officer; or

(*e*) endeavours to seduce any person in the military, naval or air forces of India from his duty or allegiance to the Union;

shall, on conviction by court-martial, be liable to suffer death or such less punishment as is in this Act mentioned.

38. *Desertion and aiding desertion.*—(*1*) Any person subject to this Act who deserts or attempts to desert the service shall on conviction by court-martial,

if he commits the offence on active service or when under orders for active service, be liable to suffer death or such less punishment as is in this Act mentioned; and

if he commits the offence under any other circumstances, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(*2*) Any person subject to this Act who, knowingly harbours any such deserter shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(*3*) Any person subject to this Act, who, being cognizant of any desertion or attempt at desertion of a person subject to this Act, does not forthwith give notice to his own or some other superior officer, or take any steps in his power to cause such person to be apprehended, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

39. *Absence without leave.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) absents himself without leave; or

(*b*) without sufficient cause overstays leave granted to him; or

(*c*) being on leave of absence and having received information from proper authority that any unit or detachment, to which he belongs, has been ordered on active service, fails, without sufficient cause, to rejoin without delay; or

(*d*) without sufficient cause fails to appear at the time fixed, at the parade or place appointed for exercise or duty; or

(*e*) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer, quits the parade or line of march; or

(*f*) when in camp or elsewhere, is found beyond any limits fixed, or in any place prohibited, by any general, local or other order, without a pass or written leave from his superior officer; or

(*g*) without leave from his superior officer or without due cause, absents himself from any school when duly ordered to attend there;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

40. *Striking or threatening superior officer.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) uses criminal force to, or assaults his superior officer; or

(*b*) uses threatening or insubordinate language to such officer;

shall, on conviction by court-martial,

if such officer is at the time in the execution of his office or, if the offence is committed on active service, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

in other cases, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

41. *Disobedience to superior officer.*—(*1*) Any person subject to this Act who disobeys in such manner as to show a wilful defiance of authority any lawful command given personally by his superior officer in the execution of his office whether the same is given orally; or in writing or by signal or otherwise shall on conviction by court-martial be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

(*2*) Any person subject to this Act who disobeys any lawful command given by his superior officer shall, on conviction by court-martial,

if he commits such offence on active service, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

if he commits such offence not on active service, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

42. *Insubordination and obstruction.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being concerned in any quarrel, affray, or disorder, refuses to obey any officer, though of inferior rank, who orders him into arrest, or uses criminal force to or assaults any such officer; or

(*b*) uses criminal force to, or assaults any person, whether subject to this Act or not, in whose custody he is lawfully placed, and whether he is or is not his superior officer; or

(*c*) resists an escort whose duty it is to apprehend him or to have him in charge; or

(*d*) breaks out of barracks, camp or quarters; or

(*e*) neglects to obey any general, local or other order; or

(*f*) impedes the provost-marshal or any person lawfully acting on his behalf or when called upon, refuses to assist in the execution of his duty a provost-marshal or any person lawfully acting on his behalf; or

(*g*) uses criminal force to or assaults any person bringing provisions or supplies to the Forces; shall,

on conviction by court-martial, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clauses (*d*) and (*e*) to two years, and in the case of the offences specified in the other clauses to ten years, or such less punishment as is in this Act mentioned.

43. *Fraudulent enrolment.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) without having obtained a regular discharge from the Air Force or otherwise fulfilled the conditions enabling him to enrol or enter, enrols himself in, or enters the said force or any part of the military or the naval forces of India; or

(*b*) is concerned in the enrolment in any part of the Forces, of any person when he knows or has reason to believe such person to be so circumstanced that by enrolling he commits an offence against this Act;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

44. *False answers on enrolment.*—Any person having become subject to this Act who is discovered to have made at the time of enrolment a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

45. *Unbecoming conduct.*—Any officer or warrant officer who behaves in a manner unbecoming his position and the character expected of him shall, on conviction by court-martial, if he is an officer, be liable to be cashiered or to suffer such less punishment as is in this Act mentioned; and if he is a warrant officer, be liable to be dismissed or to suffer such less punishment as is in this Act mentioned.

46. *Certain forms of disgraceful conduct.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) is guilty of any disgraceful conduct of a cruel, indecent or unnatural kind; or

(*b*) malingers, or feigns, or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity; or

(*c*) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or that person;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

47. *Ill-treating a subordinate.*—Any officer, warrant officer or non-commissioned officer, who uses criminal force to or otherwise ill-treats any person subject to this Act, being his subordinate in rank or position, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

48. *Intoxication.*—(*1*) Any person subject to this Act who is found in a state of intoxication, whether on duty or not, shall, on conviction by court-martial, if he is an officer, be liable to be cashiered or to suffer such less punishment as is in this Act mentioned; and if he is not an officer, be liable, subject to the

provisions of sub-section (2), to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

(2) Where an offence of being intoxicated is committed by a person other than an officer when not on active service or not on duty, the period of imprisonment awarded shall not exceed six months.

49. *Permitting escape of person in custody.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(a) when in command of a guard, piquet, patrol or post, releases without proper authority whether wilfully or without reasonable excuse, any person committed to his charge or refuses to receive any prisoner or person so committed; or

(b) wilfully or without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to keep or guard;

shall, on conviction by court-martial, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and if he has not acted wilfully, to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

50. *Irregularity in connection with arrest or confinement.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(a) unnecessarily detains a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation; or

(b) having committed a person to air force custody fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within forty-eight hours thereafter, to the officer or other person into whose custody the person arrested is committed, an account in writing signed by himself of the offence with which the person so committed is charged;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

51. *Escape from custody.*—Any person subject to this Act who, being in lawful custody, escapes or attempts to escape, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

52. *Offences in respect of property.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(a) commits theft of any property belonging to the Government, or to any military, naval or air force mess, band or institution, or to any person subject to military, naval or air force law; or

(b) dishonestly misappropriates or converts to his own use any such property; or

(c) commits criminal breach of trust in respect of any such property; or

(d) dishonestly receives or retains any such property in respect of which any of the offences under clauses (a), (b), and (c) has been committed, knowing or having reason to believe the commission of such offence; or

(e) wilfully destroys or injures any property of the Government entrusted to him; or

(*f*) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

53. *Extortion and corruption.*—Any person subject to this Act who commits any of the following offences, that is to say:—

(*a*) commits extortion;

(*b*) without proper authority exacts from any person money, provisions or service;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

54. *Making away with equipment.*—Any person subject to this Act who commits any of the following offences, that is to say:—

(*a*) makes away with, or is concerned in making away with, any arms, ammunition, equipment, instruments, tools, clothing or any other thing being the property of the Government issued to him for his use or entrusted to him; or

(*b*) loses by neglect anything mentioned in clause (*a*); or

(*c*) sells, pawns, destroys or defaces any medal or decoration granted to him;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clause (*a*) to seven years, and in the case of the offences specified in the other clauses to five years, or such less punishment as is in this Act mentioned.

55. *Injury to property.*—Any person subject to this Act who commits any of the following offences, that is to say, —

(*a*) wilfully destroys or injures any property mentioned in clause (*a*) of section 54, or any property belonging to any military, naval or air force mess, band or institution, or to any person subject to military, naval or air force law, or serving with, or attached to, the Air Force; or

(*b*) commits any act, whether wilfully or without reasonable excuse, which causes damage to, or destruction of, any property of the Government by fire; or

(*c*) wilfully or without reasonable excuse kills, injures, makes away with, ill-treats or loses any animal entrusted to him;

shall, on conviction by court-martial, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and in any other case, to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

56. *False accusation.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) makes a false accusation against any person subject to this Act, knowing or having reason to believe such accusation to be false; or

(*b*) in making a complaint under section 26 or section 27 makes any statement affecting the character of any person subject to this Act, knowing or having reason to believe such statement to be false, or knowingly and wilfully suppresses any material facts;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

57. *Falsifying official documents and false declaration.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) in any report, return, list, certificate, book or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes, or is privy to the making of any false or fraudulent statement; or

(*b*) in any document of the description mentioned in clause (*a*) knowingly makes, or is privy to the making of, any omission, with intent to defraud; or

(*c*) knowingly and with intent to injure any person, or knowingly and with intent to defraud, suppresses, defaces, alters or makes away with any document which it is his duty to preserve or produce; or

(*d*) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration; or

(*e*) obtains for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

58. *Signing in blank and failure to report.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) when signing any document relating to pay, arms, ammunition, equipment, clothing, supplies or stores, or any property of the Government leaves in blank any material part for which his signature is a voucher; or

(*b*) refuses or by culpable neglect omits to make or send a report or return which it is his duty to make or send;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

59. *Offences relating to courts-martial.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being duly summoned or ordered to attend as a witness before a court-martial, wilfully or without reasonable excuse, makes default in attending; or

(*b*) refuses to take an oath or make an affirmation legally required by a court-martial to be taken or made; or

(*c*) refuses to produce or deliver any document in his power or control legally required by a court-martial to be produced or delivered by him; or

(*d*) refuses when a witness to answer any question which he is by law bound to answer; or

(*e*) is guilty of contempt of court-martial by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

60. *False evidence.*—Any person subject to this Act, who, having been duly sworn or affirmed before any court-martial or other court competent under this Act to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

61. *Unlawful detention of pay.*—Any officer, warrant officer or non-commissioned officer who, having received the pay of a person subject to this Act unlawfully detains or refuses to pay the same when due, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

62. *Offences in relation to aircraft and flying.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) wilfully or without reasonable excuse damages, destroys or loses any aircraft or aircraft material belonging to the Government; or

(*b*) is guilty of any act or neglect likely to cause such damage, destruction or loss; or

(*c*) without lawful authority disposes of any aircraft or aircraft material belonging to the Government; or

(*d*) is guilty of any act or neglect in flying, or in the use of any aircraft, or in relation to any aircraft or aircraft material, which causes or is likely to cause loss of life or bodily injury to any person; or

(*e*) during a state of war, wilfully and without proper occasion, or negligently, causes the sequestration, by or under the authority of a neutral State, or the destruction in a neutral State of any aircraft belonging to the Government;

shall, on conviction by court-martial, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned, and in any other case, to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

63. *Other offences relating to aircraft and flying.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) signs any certificate in relation to an aircraft or aircraft material belonging to the Government without ensuring the accuracy thereof; or

(*b*) being the pilot of an aircraft belonging to the Government, flies it at a height less than such height as may be specified by the Commander-in-Chief, except while taking off or landing, or in such other cirucumstances as may be specified by the Commander-in-Chief; or

(*c*) being the pilot of an aircraft belonging to the Government, flies it so as to cause, or to be likely to cause, unnecessary annoyance to any person;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

64. *Disobedience of lawful command of captain of aircraft.*—Any person subject to this Act who, whatever his rank, commits any of the following offences, that is to say,—

(*a*) while he is in an aircraft disobeys any lawful command given by the captain of the aircraft, whether such captain is subject to this Act or not, as respects all matters relating to the flying or handling of the aircraft, or affecting the safety thereof; or

(*b*) being the captain of a glider aircraft towed by another aircraft disobeys any lawful command given by the captain of the towing aircraft, whether the latter is subject to this Act or not, as respects all matters aforesaid;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

65. *Violation of good order and air force discipline.*—Any person subject to this Act who is guilty of any act or omission which though not specified in this Act, is prejudicial to good order and air force discipline shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

66. *Miscellaneous offences.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority; or

(*b*) by defiling any place of worship, or otherwise, intentionally insults the religion or wounds the religious feelings of any person; or

(*c*) attempts to commit suicide, and in such attempt does any act towards the commission of such offence; or

(*d*) being below the rank of warrant officer, when off duty, appears, without proper authority, in or about camp or cantonments, or in or about, or when going to or returning from, any town or bazar, carrying a rifle, sword or other offensive weapon; or

(*e*) directly or indirectly accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service; or

(*f*) commits any offence against the property or person of any inhabitant of or resident in, the country in which he is serving;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

67. *Attempt.*—Any person subject to this Act who attempts to commit any of the offences specified in sections 34 to 66, and in such attempt does any act towards the commission of the offence shall, on conviction by court-martial, where no express provision is made by this Act for the punishment of such attempt, be liable,

if the offence attempted to be committed is punishable with death, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

if the offence attempted to be committed is punishable with imprisonment, to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

68. *Abetment of offences that have been committed.*—Any person subject to this Act who abets the commission of any of the offences specified in sections 34 to 66 shall, on conviction by court-martial, if the act abetted is committed in consequence of the abetment and no express provision is made by this Act for the punishment of such abetment, be liable to suffer the punishment provided for that offence or such less punishment as is in this Act mentioned.

69. *Abetment of offences punishable with death and not committed.*—Any person subject to this Act who abets the commission of any of the offences punishable with death under sections 34, 37 and sub-section (*1*) of section 38, shall, on conviction by court-martial, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

70. *Abetment of offences punishable with imprisonment and not committed.*—Any person subject to this Act who abets the commission of any of the offences specified in sections 34 to 66 and punishable with imprisonment shall, on conviction by court-martial, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

71. *Civil offences.*—Subject to the provisions of section 72, any person subject to this Act who at any place in or beyond India commits any civil offence shall be deemed to be guilty of an offence against this Act and, if charged therewith under this section shall be liable to be tried by a court-martial and, on conviction, be punishable as follows, that is to say,—

(*a*) if the offence is one which would be punishable under any law in force in India with death or with transportation, he shall be liable to suffer any punishment, other than whipping, assigned for the offence, by the aforesaid law and such less punishment as is in this Act mentioned; and

(*b*) in any other case, he shall be liable to suffer any punishment, other than whipping, assigned for the offence by any law in force in India, or imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

72. *Civil offences not triable by court-martial.*—A person subject to this Act who commits an offence of murder against a person not subject to military, naval or air force law, or of culpable homicide not amounting to murder against such a person or of rape in relation to such person, shall not be deemed to be guilty of an offence against this Act and shall not be tried by a court-martial, unless he commits any of the said offences—

(*a*) while on active service, or

(*b*) at any place outside India, or

(*c*) at a frontier post specified by the said Government by notification in this behalf.

## CHAPTER VII

### PUNISHMENTS

73. *Punishments awardable by courts-martial.*—Punishments may be inflicted in respect of offences committed by persons subject to this Act and convicted by courts-martial according to the scale following, that is to say,—

(*a*) death;

(*b*) transportation for life or for any period not less than seven years, in respect of civil offences;

(*c*) imprisonment, either rigorous or simple, for any period not exceeding fourteen years;

(*d*) detention for a term not exceeding two years in the case of airmen;

(*e*) cashiering, in the case of officers;

(*f*) dismissal from service;

(*g*) reduction to the ranks or to a lower rank or classification in the case of warrant officers and non-commissioned officers:

Provided that a warrant officer reduced to the ranks shall not be required to serve in the ranks as an airman;

(*h*) forfeiture of seniority of rank, in the case of officers, warrant officers and non-commissioned officers; and forfeiture of all or any part of their service for the purpose of promotion, in the case of any of them whose promotion depends upon length of service;

(*i*) forfeiture of service for the purpose of increased pay, pension or any other prescribed purpose;

(*j*) severe reprimand or reprimand, in the case of officers, warrant officers and non-commissioned officers;

(*k*) forfeiture of pay and allowances for a period not exceeding three months for an offence committed on active service;

(*l*) forfeiture in the case of a person sentenced to cashiering or dismissal from the service of all arrears of pay and allowances and other public money due to him at the time of such cashiering or dismissal;

(*m*) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

74. *Alternative punishments awardable by court-martial.*—Subject to the provisions of this Act, a court-martial may, on convicting a person subject to this Act of any of the offences specified in sections 34 to 70, award either the particular punishment with which the offence is stated in the said sections to be punishable, or, in lieu thereof, any one of the punishments lower in the scale set out in section 73, regard being had to the nature and degree of the offence.

75. *Combination of punishments.*—A sentence of a court-martial may award in addition to, or without any one other punishment, the punishment specified in clause (*e*) or clause (*f*) of section 73 and any one or more of the punishments specified in clauses (*g*) to (*m*) of that section.

76. *Cashiering of officers.*—An officer shall be sentenced to be cashiered before he is awarded any of the punishments specified in clauses (*a*) to (*c*) of section 73.

77. *Field punishment.*—(*1*) Where any person subject to this Act and under the rank of warrant officer commits any offence on active service, it shall be lawful for a court-martial to award for that offence any such punishment as is prescribed as a field punishment.

(2) Field punishment shall be of the character of personal restraint or of hard labour but shall not be of a nature to cause injury to life or limb and shall not include flogging.

78. *Position of field punishment in scale of punishments.*—Field punishment shall for the purpose of commutation be deemed to stand next below dismissal in the scale of punishments specified in section 73.

79. *Result of certain punishments in the case of a warrant officer or non-commissioned officer.*—A warrant officer or a non-commissioned officer sentenced by a court-martial to transportation, imprisonment, detention, field punishment or dismissal from the service shall be deemed to be reduced to the ranks.

80. *Retention in the ranks of a person convicted on active service.*—When, on active service, any enrolled person has been sentenced by a court-martial to dismissal, or to transportation, imprisonment or detention, whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks and such service shall be reckoned as part of his term of transportation, imprisonment or detention, if any.

81. *Punishments otherwise than by court-martial.*—Punishments may also be inflicted in respect of offences committed by persons subject to this Act without the intervention of a court-martial and in the manner stated in sections 82 and 86.

82. *Punishment of persons other than officers and warrant officers.*—Subject to the provisions of section 84, a commanding officer or such other officer as is, with the consent of the Central Government, specified by the Commander-in-Chief, may, in the prescribed manner, proceed against a person subject to this Act otherwise than as an officer or warrant officer who is charged with an offence under this Act and award such person, to the extent prescribed, one or more of the following punishments, that is to say,—

(*a*) detention up to twenty-eight days;
(*b*) confinement to the camp up to fourteen days;
(*c*) extra guards or duties not exceeding three in number;
(*d*) deprivation of acting rank;
(*e*) forfeiture of good service and good conduct badge and pay;
(*f*) severe reprimand or reprimand;
(*g*) fine up to fourteen days' pay in any one month;
(*h*) penal deductions under clause (*g*) of section 92;
(*i*) admonition;
(*j*) any prescribed field punishment up to twenty-eight days, in the case of a person on active service.

83. *Requirement of sanction in certain cases.*—(*1*) Subject to the provisions of sub-section (*2*), the punishments mentioned in section 82 shall not be inflicted in respect of an offence under any of the sections 34, 35 and 36 when committed on active service or under any of the sections 37, 38, 40, 42 (*f*) and (*g*), 43, 47, 52, 60, 62, 63, 64, 66 (*a*), (*b*) and (*c*) and 71 except with the previous sanction in writing of an officer having power to convene a district court-martial.

(*2*) The said punishments may be awarded without such sanction in the case of any offence, other than an offence under section 34 or section 71, committed by persons who have not been enrolled as combatants.

84. *Limit of punishments under section 82.*—(*1*) An award of punishment under section 82 shall not include field punishment in addition to one or more of the punishments specified in clauses (*a*) and (*b*) of that section.

(2) In the case of an award of two or more of the punishments specified in clauses (a), (b) and (c) of the said section, the punishment specified in clause (b) or clause (c) shall take effect only at the end of the punishment specified in clause (a).

(3) When two or more of the punishments specified in the said clauses (a) and (b) are awarded to a person conjointly, or when already undergoing one or more of the said punishments, the whole extent of the punishments shall not exceed in the aggregate forty-two days.

(4) The punishments specified in clauses (a), (b), (c), (e), (g) and (j) of section 82 shall not be awarded to any person who is of the rank of non-commissioned officer or was, at the time of committing the offence for which he is punished, of such rank.

(5) The punishment specified in clause (f) of the said section shall not be awarded to any person below the rank of a non-commissioned officer.

85. *Punishments in addition to those specified in section* 82.—The Commander-in-Chief may, with the consent of the Central Government, specify such other punishments as may be awarded under section 82 in addition to or without any of the punishments specified in the said section, and the extent to which such other punishments may be awarded.

86. *Punishment of officers and warrant officers.*—An officer having power to convene a general court-martial or such other officer as is, with the consent of the Central Government, specified by the Commander-in-Chief may, in the prescribed manner, proceed against an officer below the rank of squadron leader or a warrant officer, who is charged with an offence under this Act, and award one or more of the following punishments, that is to say,—

(a) forfeiture of seniority, or in the case of any of them whose promotion depends upon length of service, forfeiture of service for the purpose of promotion for a period not exceeding twelve months, but subject to the right of the accused previous to the award to elect to be tried by a court-martial;

(b) severe reprimand or reprimand;

(c) stoppage of pay and allowance until any proved loss or damage occasioned by the offence of which he is convicted is made good but subject to the right of the accused specified in clause (a);

(d) forfeiture of pay and allowances for a period not exceeding three months for an offence under clause (e) of section 42 in so far as it consists of neglect to obey flying orders or under section 62 or section 63.

87. *Transmission of proceedings.*—In every case in which punishment has been awarded under section 86, certified true copies of the proceedings shall be forwarded, in the prescribed manner by the officer awarding the punishment, to a superior air force authority as defined in section 89.

88. *Review of proceedings.*—If any punishment awarded under section 86 appears to a superior air force authority as defined in section 89 to be illegal, unjust or excessive, such authority may cancel, vary or remit the punishment and make such other direction as may be appropriate in the circumstances of the case.

89. *Superior air force authority.*—For the purposes of sections 87 and 88, a "superior air force authority" means—

(a) in the case of punishments awarded by a commanding officer, any officer superior in command to such commanding officer;

(*b*) in the case of punishments awarded by any other authority, the Central Government, the Commander-in-Chief or other officer specified by the Commander-in-Chief.

90. *Collective fines.*—(*1*) Whenever any weapon or part of a weapon forming part of the equipment of a unit or detachment is lost or stolen, the officer commanding such unit or detachment may, after obtaining the report of a court of inquiry, impose a collective fine upon the warrant officers, non-commissioned officers and men of such unit, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

(*2*) Such fine shall be assessed as a percentage on the pay of the individuals on whom it falls.

## CHAPTER VIII

### PENAL DEDUCTIONS

91. *Deductions from pay and allowances of officers.*—The following penal deductions may be made from the pay and allowances of an officer, that is to say,—

(*a*) all pay and allowances due to an officer for every day he absents himself without leave, unless a satisfactory explanation has been given to his commanding officer and has been approved by the Central Government;

(*b*) all pay and allowances for every day while he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or a court-martial or by an officer exercising authority under section 86;

(*c*) any sum required to make good the pay of any person subject to this Act which he has unlawfully retained or unlawfully refused to pay;

(*d*) any sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of an offence as may be determined by the court-martial by whom he is convicted of such offence, or by an officer exercising authority under section 86;

(*e*) all pay and allowances ordered by a court-martial or an officer exercising authority under section 86 to be forfeited or stopped;

(*f*) any sum required to pay a fine awarded by a criminal court or a court-martial exercising jurisdiction under section 71;

(*g*) any sum required to make good any loss, damage, or destruction of public or service property which, after due investigation, appears to the Central Government to have been occasioned by the wrongful act or negligence on the part of the officer;

(*h*) all pay and allowances forfeited by order of the Central Government if the officer is found by a court of inquiry constituted by the Commander-in-Chief in this behalf, to have deserted to the enemy, or while in enemy hands, to have served with, or under the orders of, the enemy or in any manner to have aided the enemy, or to have allowed himself to be taken prisoner by the enemy through want of due precaution or through disobedience of orders or wilful neglect of duty, or having been taken prisoner by the enemy, to have failed to rejoin his service when it was possible to do so;

(*i*) any sum required by order of the Central Government to be paid for the maintenance of his wife or his legitimate or illegitimate child or

towards the cost of any relief given by the said Government to the said wife or child.

92. *Deductions from pay and allowances of airmen.*—Subject to the provisions of section 95, the following penal deductions may be made from the pay and allowances of an airman, that is to say,—

(*a*) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of transportation or imprisonment awarded by a criminal court, or a court-martial, or of detention, or field punishment awarded by a court-martial or an officer exercising authority under section 82;

(*b*) all pay and allowances for every day while he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or a court-martial, or on a charge of absence without leave for which he is afterwards awarded detention or field punishment by an officer exercising authority under section 82;

(*c*) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by an offence under this Act committed by him;

(*d*) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be specified by order of the Central Government or by such officer as may be specified by that Government;

(*e*) all pay and allowances ordered by a court-martial or by an officer exercising authority under section 82 or section 86 to be forfeited or stopped;

(*f*) all pay and allowances for every day between his being recovered from the enemy and his dismissal from the service in consequence of his conduct when being taken prisoner by, or while in the hands of, the enemy;

(*g*) any sum required to make good such compensation for any expenses, loss, damage or destruction caused by him to the Central Government or to any building or property as may be awarded by his commanding officer;

(*h*) any sum required to pay a fine awarded by a criminal court, a court-martial exercising jurisdiction under section 71, or an officer exercising authority under section 82 or section 90;

(*i*) any sum required by order of the Central Government or any prescribed officer to be paid for the maintenance of his wife or his legitimate or illegitimate child or towards the cost of any relief given by the said Government to the said wife or child.

93. *Computation of the time of absence or custody.*—For the purposes of clauses (*a*) and (*b*) of section 92—

(*a*) no person shall be treated as absent or in custody for a day unless the absence or custody has lasted, whether wholly in one day, or partly in one day and partly in another, for six consecutive hours or upwards;

(*b*) any absence or custody for less than a day may be reckoned as absence or custody for a day if such absence or custody prevented the absentee from fulfilling any air force duty which was thereby thrown upon some other person;

(*c*) absence or custody for twelve consecutive hours or upwards may be reckoned as absence or custody for the whole of each day during any portion of which the person was absent or in custody;

(*d*) a period of absence, or imprisonment, which commences before, and ends after, midnight may be reckoned as a day.

94. *Pay and allowances during trial.*—In the case of any person subject to this Act who is in custody on a charge for an offence, the prescribed officer may direct that the whole or any part of the pay and allowances of such person shall be withheld, pending the result of his trial on the charge against him, in order to give effect to the provisions of clause (*b*) of sections 91 and 92.

95. *Limit of certain deductions.*—The total deductions from the pay and allowances of a person made under clauses (*e*) and (*g*) to (*i*) of section 92 shall not, except where he is sentenced to dismissal, exceed in any one month one-half of his pay and allowances for that month.

96. *Deduction from public money due to a person.*—Any sum authorised by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

97. *Pay and allowances of prisoner of war during inquiry into his conduct.*—Where the conduct of any person subject to this Act when being taken prisoner by, or while in the hands of, the enemy, is to be inquired into under this Act or any other law, the Commander-in-Chief or any officer authorised by him may order that the whole or any part of the pay and allowances of such person shall be withheld pending the result of such inquiry.

98. *Remission of deductions.*—Any deduction from pay and allowances authorised by this Act may be remitted in such manner, and to such extent, and by such authority, as may from time to time be prescribed.

99. *Provision for dependants of prisoner of war from remitted deductions.*—In the case of all persons subject to this Act, being prisoners of war, whose pay and allowances have been forfeited under clause (*h*) of section 91 or clause (*a*) of section 92, but in respect of whom a remission has been made under section 98, it shall be lawful for proper provision to be made by the prescribed authorities out of such pay and allowances for any dependants of such persons, any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances.

100. *Provision for dependants of prisoner of war from his pay and allowances.*—It shall be lawful for proper provision to be made by the prescribed authorities for any dependants of any person subject to this Act, who is a prisoner of war or is missing, out of his pay and allowances.

101. *Period during which a person is deemed to be a prisoner of war.*—For the purposes of sections 99 and 100, a person shall be deemed to continue to be a prisoner of war until the conclusion of any inquiry into his conduct such as is referred to in section 97, and if he is cashiered or dismissed from the service in consequence of such conduct, until the date of such cashiering or dismissal.

## CHAPTER IX

### Arrest and Proceedings before Trial

102. *Custody of offenders.*—(*1*) Any person subject to this Act who is charged with an offence may be taken into air force custody.

(*2*) Any such person may be ordered into air force custody by any superior officer.

(*3*) Any officer may order into air force custody any officer, though he may be of a higher rank, engaged in a quarrel, affray or disorder.

103. *Duty of commanding officer in regard to detention.*—(*1*) It shall be the duty of every commanding officer to take care that a person under his command when charged with an offence is not detained in custody for more than forty-eight hours after the committal of such person into custody is reported to him, without the charge being investigated, unless investigation within that period seems to him to be impracticable with due regard to the public service.

(*2*) Every case of a person being detained in custody beyond a period of forty-eight hours, and the reason thereof shall be reported by the commanding officer to the air or other officer to whom application would be made to convene a general or district court-martial for the trial of the person charged.

(*3*) In reckoning the period of forty-eight hours specified in sub-section (*1*), Sundays and public holidays shall be excluded.

(*4*) Nothing contained in clauses (1) and (2) of Article 22 of the Constitution shall apply to any person who is taken into air force custody under this Act.

104. *Interval between committal and court-martial.*—In every case where any such person as is mentioned in section 102 and as is not on active service remains in such custody for a longer period than eight days, without a court-martial for his trial being ordered to assemble, a special report of the necessity for further delay shall be made by his commanding officer in the manner prescribed; and a similar report shall be forwarded every eight days until a court-martial is assembled or such person is released from custody.

105. *Arrest by civil authorities.*—Whenever any person subject to this Act, who is accused of any offence under this Act, is within the jurisdiction of any Magistrate or police officer, such Magistrate or police officer shall aid in the apprehension and delivery to air force custody of such person upon receipt of a written application to that effect signed by his commanding officer.

106. *Capture of deserters.*—(*1*) Whenever any person subject to this Act deserts the commanding officer of the unit or detachment to which he belongs, shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter, when apprehended, into air force custody.

(*2*) Any police officer may arrest without warrant any person reasonably believed to be subject to this Act, and to be a deserter or to be travelling without authority, and shall bring him without delay before the nearest Magistrate, to be dealt with according to law.

107. *Inquiry into absence without leave.*—(*1*) When any person subject to this Act has been absent from his duty without due authority for a period of thirty days, a court of inquiry shall, as soon as practicable, be assembled, and such court shall, on oath or affirmation administered in the prescribed manner, inquire respecting the absence of the person, and the deficiency, if any, in the property of the Government entrusted to his care, or in any arms, ammunition, equipment, instruments, clothing or necessaries, and if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any; and the commanding officer of the unit to which the person belongs shall enter in the court-martial book of the unit a record of declaration.

(*2*) If the person declared absent does not afterwards surrender or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

108. *Provost-marshals.*—(*1*) Provost-marshals may be appointed by the Commander-in-Chief, or by any prescribed officer.

(*2*) The duties of a provost-marshal so appointed are to take charge of persons confined for any offence, to preserve good order and discipline, and to prevent breaches of the same by persons serving in, or attached to, the Air Force.

(*3*) A provost-marshal may at any time arrest and detain for trial any person subject to this Act who commits, or is charged with, an offence, and may also carry into effect any punishment to be inflicted in pursuance of the sentence awarded by a court-marshal, or by an officer exercising authority under section 82 but shall not inflict any punishment on his own authority.

(*4*) For the purposes of sub-sections (*2*) and (*3*), a provost-marshal shall be deemed to include a provost-marshal appointed under the Army Act or the Navy Act and any person legally exercising authority under him or on his behalf.

## CHAPTER X

### COURTS-MARTIAL

109. *Different kinds of courts-martial.*—For the purposes of this Act there shall be three kinds of courts-martial, that is to say,—

(*a*) general courts-martial;
(*b*) district courts-martial; and
(*c*) summary general courts-martial.

110. *Power to convene a general court-martial.*—A general court-martial may be convened by the Central Government or the Commander-in-Chief, or by any officer empowered in this behalf by a warrant of the Commander-in-Chief.

111. *Power to convene a district court-martial.*—A district court-martial may be convened by an officer having power to convene a general court-martial, or by any officer empowered in this behalf by a warrant of any such officer.

112. *Contents of warrants issued under sections* 110 *and* 111.—A warrant issued under section 110 or section 111 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

113. *Power to convene a summary general court-martial.*—The following authorities shall have the power to convene a summary general court-martial, namely :—

(*a*) an officer empowered in this behalf by an order of the Central Government or of the Commander-in-Chief;

(*b*) on active service, the officer commanding the forces in the field, or any officer empowered by him in this behalf;

(*c*) an officer commanding any detached portion of the Air Force on active service when, in his opinion, it is not practicable, with due regard to discipline and the exigencies of the service, that an offence should be tried by a general court-martial.

114. *Composition of general court-martial.*—A general court-martial shall consist of not less than five officers, each of whom has held a commission for not less than three whole years and of whom not less than four are of a rank not below that of flight-lieutenant.

115. *Composition of district court-martial.*—A district court-martial shall consist of not less than three officers, each of whom has held a commission for not less than two whole years.

116. *Composition of summary general court-martial.*—A summary general court-martial shall consist of not less than three officers.

117. *Dissolution of court-martial.*—(*1*) If a court-martial after the commencement of a trial is reduced below the minimum number of officers required by this Act, it shall be dissolved.

(*2*) If, on account of the illness of the judge advocate or of the accused before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(*3*) The officer who convened a court-martial may dissolve such court-martial if it appears to him that the exigencies of the service or the necessities of discipline render it impossible or inexpedient to continue the said court-martial.

(*4*) Where a court-martial is dissolved under this section, the accused may be tried again.

118. *Powers of general and summary general courts-martial.*—A general or summary general court-martial shall have power to try any person subject to this Act for any offence punishable therein and to pass any sentence authorised thereby.

119. *Powers of district court-martial.*—A district court-martial shall have power to try any person subject to this Act other than an officer or warrant officer for any offence made punishable therein, and to pass any sentence authorised by this Act other than a sentence of death, transportation, or imprisonment for a term exceeding two years.

120. *Prohibition of second trial.*—When any person subject to this Act has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been dealt with under section 82 or section 86, he shall not be liable to be tried again for the same offence by a court-martial or dealt with under the said sections.

121. *Period of limitation for trial.*—(*1*) Except as provided by sub-section (*2*), no trial by court-martial of any person subject to this Act for any offence shall be commenced after the expiration of a period of three years from the date of such offence.

(*2*) The provisions of sub-section (*1*) shall not apply to a trial for an offence of mutiny, desertion or fraudulent enrolment.

(*3*) In the computation of the period of time mentioned in sub-section (*1*), any time spent by such person as a prisoner of war, or in enemy territory, or in evading arrest after the commission of the offence, shall be excluded.

(*4*) No trial for an offence of desertion, other than desertion on active service or of fraudulent enrolment shall be commenced if the person in question, not being an officer has, subsequently to the commission of the offence, served continuously in an exemplary manner for not less than three years with any portion of the Air Force.

(*5*) For the purposes of sub-section (*2*), mutiny means any of the offences mentioned in section 37.

122. *Liability of offender who ceases to be subject to Act.*—(*1*) Where an offence under this Act had been committed by any person while subject to this Act, and he has ceased to be so subject, he may be taken into and kept in air force custody, and tried and punished for such offence as if he continued to be so subject.

(2) Except as provided by sub-sections (3) and (4), any such person shall not be tried for an offence, unless his trial commences within six months after he had ceased to be subject to this Act.

(3) The provisions of sub-section (2) shall not apply to the trial of any such person for an offence of mutiny, desertion or fraudulent enrolment.

(4) Nothing contained in sub-section (2) shall affect the jurisdiction of a civil court to try any offence triable by such court as well as by a court-martial.

(5) When a person subject to this Act is sentenced by a court-martial to transportation or imprisonment, this Act shall apply to him during the term of his sentence, though he is cashiered or dismissed from the Air Force, or has otherwise ceased to be subject to this Act, and he may be kept, removed, imprisoned and punished as if he continued to be subject to this Act.

(6) When a person subject to this Act is sentenced by a court-martial to death, this Act shall apply to him till the sentence is carried out.

123. *Place of trial.*—Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever.

124. *Choice between criminal court and court-martial.*—When a criminal court and a court-martial have each jurisdiction in respect of an offence, it shall be in the discretion of the Commander-in-Chief, the officer commanding any group, wing or station in which the accused prisoner is serving or such other officer as may be prescribed to decide before which court the proceedings shall be instituted, and, if that officer decides that they should be instituted before a court-martial, to direct that the accused person shall be detained in air force custody.

125. *Power of criminal court to require delivery of offender.*—(1) When a criminal court having jurisdiction is of opinion that proceedings shall be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer referred to in section 124 at his option, either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings pending a reference to the Central Government.

(2) In every such case the said officer shall either deliver over the offender in compliance with the requisition, or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of the Central Government whose order upon such reference shall be final.

126. *Successive trials by a criminal court and a court-martial.*—(1) A person convicted or acquitted by a court-martial may, with the previous sanction of the Central Government, be tried again by a criminal court for the same offence, or on the same facts.

(2) If a person sentenced by a court-martial under this Act or punished under section 82 or section 86 is afterwards tried and convicted by a criminal court for the same offence, or on the same facts, that court shall, in awarding punishment have regard to the punishment he may already have undergone for the said offence.

## CHAPTER XI

### Procedure of Courts-martial

127. *President.*—At every general, district or summary general court-martial the senior member shall sit as president.

128. *Judge Advocate.*—Every general court-martial shall, and every district or summary general court-martial may, be attended by a judge advocate, who shall be either an officer belonging to the department of the Chief Legal Adviser or if no such officer is available, an officer approved by the Chief Legal Adviser or any of his deputies.

129. *Challenges.*—(*1*) At all trials by general, district or summary general courts-martial, as soon as the court is assembled, the names of the president and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the court.

(*2*) If the accused objects to any such officer, his objection, and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer, decide on the objection.

(*3*) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner by another officer, subject to the same right of the accused to object.

(*4*) When no challenge is made, or when challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the court shall proceed with the trial.

130. *Oaths of member, judge advocate and witness.*—(*1*) An oath or affirmation in the prescribed manner shall be administered to every member of every court-martial and to the judge advocate before the commencement of the trial.

(*2*) Every person giving evidence before a court-martial shall be examined on oath or affirmation, and shall be duly sworn or affirmed in the prescribed form.

(*3*) The provisions of sub-section (*2*) shall not apply where the witness is a child under twelve years of age and the court-martial is of opinion that though the witness understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation.

131. *Voting of members.*—(*1*) Subject to the provisions of sub-sections (*2*) and (*3*), every decision of a court-martial shall be passed by an absolute majority of votes; and where there is an equality of votes on either the finding or the sentence, the decision shall be in favour of the accused.

(*2*) No sentence of death shall be passed by a general court-martial without the concurrence of at least two-thirds of the members of the court.

(*3*) No sentence of death shall be passed by a summary general court-martial without the concurrence of all the members.

(*4*) In matters other than a challenge or the finding or sentence, the president shall have a casting vote.

132. *General rule as to evidence.*—The Indian Evidence Act, 1872 (I of 1872), shall subject to the provisions of this Act, apply to all proceedings before a court-martial.

133. *Judicial notice.*—A court-martial may take judicial notice of any matter within the general air force knowledge of the members.

134. *Summoning witnesses.*—(*1*) The convening officer, the president of a court-martial, the judge advocate or the commanding officer of the accused

person, may, by summons under his hand, require the attendance, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(*2*) In the case of witness amenable to air force authority, the summons shall be sent to his commanding officer, and such officer shall serve it upon him accordingly.

(*3*) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be or reside, and such Magistrate shall give effect to the summons as if the witness were required in the court of such Magistrate.

(*4*) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with reasonable precision.

135. *Documents exempted from production.*—(*1*) Nothing in section 134 shall be deemed to affect the operation of sections 123 and 124 of the Indian Evidence Act, 1872 (I of 1872), or to apply to any letter, postcard, telegram or other document in the custody of the postal or telegraph authorities.

(*2*) If any document in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purposes of any court-martial, such Magistrate or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court may direct.

(*3*) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause search to be made for and to detain such document pending the orders of any such District Magistrate, Chief Presidency Magistrate or Court.

136. *Commissions for examination of witnesses.*—(*1* Whenever, in the course of a trial by court-martial, it appears to the court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such court may address the Chief Legal Adviser in order that a commission to take the evidence of such witness may be issued.

(*2*) The Chief Legal Adviser may then, if he thinks necessary, issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(*3*) The Magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under the Code of Crinimal Procedure, 1898 (Act V of 1898) or any corresponding law in force in an Acceding State.

(*4*) When the witness resides in a tribal area or in any place outside India, the commission may be issued in the manner specified in Chapter XL of the Code of Criminal Procedure, 1898 (Act V of 1898), or of any corresponding law in force in an Acceding State.

(*5*) In this and the next succeeding section, the expression "Chief Legal Adviser" includes a Deputy Chief Legal Adviser.

137. *Examination of a witness on commission.*—(*1*) The prosecutor and the accused person in any case in which a commission is issued under section 136 may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the Magistrate or officer executing the commission shall examine the witness upon such interrogatories.

(*2*) The prosecutor and the accused person may appear before such Magistrate or officer by counsel or, except in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine, as the case may be, the said witness.

(*3*) After a commission issued under section 136 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder to the Chief Legal Adviser.

(*4*) On receipt of a commission and deposition returned under sub-section (*3*), the Chief Legal Adviser shall forward the same to the court at whose instance the commission was issued or, if such court has been dissolved, to any other court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to inspection by the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

(*5*) In every case in which a commission is issued under section 136, the trial may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

138. *Conviction of offence not charged.*—(*1*) A person charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave.

(*2*) A person charged before a court-martial with attempting to desert may be found guilty of being absent without leave.

(*3*) A person charged before a court-martial with using criminal force may be found guilty of assault.

(*4*) A person charged before a court-martial with using threatening language may be found guilty of using insubordinate language.

(*5*) A person charged before a court-martial with any one of the offences specified in clauses (*a*), (*b*), (*c*) and (*d*) of section 52 may be found guilty of any other of these offences with which he might have been charged.

(*6*) A person charged before a court-martial with an offence punishable under section 71 may be found guilty of any other offence of which he might have been found guilty if the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), were applicable.

(*7*) A person charged before a court-martial with any offence under this Act, may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment.

(*8*) A person charged before a court-martial with any offence under this Act may be found guilty of having attempted or abetted the commission of that offence, although the attempt or abetment is not separately charged.

139. *Presumption as to signatures.*—In any proceeding under this Act, any application, certificate, warrant, reply, or other document purporting to be signed by an officer in the service of the Government shall, on production, be presumed to have been duly signed by the person, by whom and in the character in which it purports to have been signed, until the contrary is shown.

140. *Enrolment paper.*—(*1*) Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given.

(*2*) The enrolment of such person may be proved by the production of the original or a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper.

141. *Presumption as to certain documents.*—(*1*) A letter, return or other document respecting the service of any person in, or the cashiering dismissal or discharge of any person from, any portion of the Air Force, or respecting the circumstances of any person not having served in, or belonged to, any portion of the Forces, if purporting to be signed by or on behalf of the Central Government or the Commander-in-Chief, or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document.

(*2*) An Army, Navy or Air Force List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers or warrant officers therein mentioned, and of any appointment held by them and of the unit or branch of the services to which they belong.

(*3*) Where a record is made in any service book in pursuance of this Act or of any rules made thereunder or otherwise in pursuance of air force duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts therein stated.

(*4*) A copy of any record in any service book purporting to be certified to be a true copy by the officer having custody of such book shall be evidence of such record.

(*5*) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of any officer or other person subject to this Act, or any portion of the Air Force, or has been apprehended by such officer or person, a certificate purporting to be signed by such officer, or by the commanding officer of that portion of the Air Force, or by the commanding officer of the unit, or detachment to which such person belongs, as the case may be, and stating the fact, date and place of such surrender or apprehension, and the manner in which he was dressed, shall be evidence of the matters so stated.

(*6*) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a police officer not below the rank of an officer in charge of a police station, a certificate purporting to be signed by such police officer and stating the fact, date and place of such surrender or apprehension and the manner in which he was dressed shall be evidence of the matters so stated.

(*7*) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report may be used as evidence in any proceeding under this Act.

142. *Reference by accused to Government officer.*—(*1*) If at any trial for desertion or absence without leave, overstaying leave or not rejoining when warned for service, the person tried states in his defence any sufficient or reasonable excuse for his unauthorised absence, and refers in support thereof to any officer in the service of the Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the court shall address such officer and adjourn the proceedings until his reply is received.

(2) The written reply of any officer so referred to shall, if signed by him be received in evidence and have the same effect as if made on oath before the court.

(3) If the court is dissolved before the receipt of such reply, or if the court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial.

143. *Evidence of previous convictions and general character.*—(1) When any person subject to this Act has been convicted by a court-martial of any offence, such court-martial may inquire into, and receive and record evidence of any previous convictions of such person, either by a court-martial or by a criminal court, or any previous award of punishment under section 82 or section 86 and may further inquire into and record the general character of such person and such other matters as may be prescribed.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, court-martial books or other official records, and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

144. *Lunacy of accused.*—(1) Whenever, in the course of a trial by a court-martial, it appears to the court that the person charged is by reason of unsoundness of mind incapable of making his defence, or that he committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or knowing that it was wrong or contrary to law, the court shall record a finding accordingly.

(2) The president of the court shall forthwith report the case to the confirming officer.

(3) The confirming officer to whom the case is reported under sub-section (2) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another court-martial for the offence with which he was charged.

(4) A confirming officer confirming a finding in any case so reported to him under sub-section (2) shall order the accused person to be kept in custody in the prescribed manner and shall report the case for the orders of the Central Government.

(5) On receipt of a report under sub-section (4) the Central Government may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

145. *Subsequent fitness of lunatic accused for trial.*—Where any accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention under section 144, the officer commanding a unit or detachment within the area of whose command the accused is in custody or is detained, or any other officer prescribed in this behalf, may—

(a) if such person is in custody under sub-section (4) of section 144, on the report of a medical officer that he is capable of making his defence, or

(b) if such person is detained in a jail under sub-section (5) of section 144, on a certificate of the Inspector General of Prisons, and if such person is detained in a lunatic asylum under the said sub-section on a certificate of any two or more of the visitors of such asylum that he is capable of making his defence,

take steps to have such person tried by the same or another court-martial for the offence with which he was originally charged, or, if the offence is a civil offence, by a criminal court.

146. *Transmission to Central Government of orders under section* 145.—A copy of every order made by an officer under section 145 for the trial of the accused shall forthwith be sent to the Central Government.

147. *Release of lunatic accused.*—Where any person is in custody under sub-section (*4*) of section 144 or under detention under sub-section (*5*) of that section—

(*a*) if such person is in custody under the said sub-section (*4*), on the report of a medical officer, or

(*b*) if such person is detained under the said sub-section (*5*), on a certificate from any of the authorities mentioned in clause (*b*) of section 145 that, in the judgment of such officer or authority such person may be released without danger of his doing injury to himself or to any other person,

the Central Government may order that such person be released, or detained in custody, or transferred to a public lunatic asylum if he has not already been sent to such an asylum.

148. *Delivery of lunatic accused to relatives.*—Where any relative or friend of any person who is in custody under sub-section (*4*) of section 144 or under detention under sub-section (*5*) of that section desires that he should be delivered to his care and custody, the Central Government may upon application by such relative or friend and on his giving security to the satisfaction of that Government that the person delivered shall be properly taken care of and prevented from doing injury to himself or any other person, and be produced for the inspection of such officer, and at such times and places, as the Central Government may direct, order such person to be delivered to such relative or friend.

149. *Order for custody and disposal of property pending trial.*—When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a court-martial during a trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

150. *Order for disposal of property regarding which offence is committed.*—(*1*) After the conclusion of a trial before any court-martial, the court or the officer confirming the finding or sentence of such court-martial or any authority superior to such officer, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(*2*) Where any order has been made under sub-section (*1*) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within India or not, be sent to a Magistrate within whose jurisdiction such property for the time being is situated, and such Magistrate shall thereupon cause the order to be carried into effect as if it were an order passed by him under the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), or any corresponding law in force in an Acceding State.

(*3*) In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such

property as has been originally in the possession or under the control of any person, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

151. *Powers of court-martial when certain offences are committed by persons not subject to this Act.*—Any trial by a court-martial under the provisions of this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860), and the court-martial shall be deemed to be a court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

## CHAPTER XII

### Confirmation and Revision

152. *Finding and sentence not valid, unless confirmed.*—No finding or sentence of a general, district or summary general court-martial shall be valid except so far as it may be confirmed as provided by this Act.

153. *Power to confirm finding and sentence of general court-martial.*—The findings and sentences of general courts-martial may be confirmed by the Central Government, the Commander-in-Chief or by any officer empowered in this behalf by warrant of the Commander-in-Chief.

154. *Power to confirm finding and sentence of district court-martial.*—The findings and sentences of district courts-martial may be confirmed by any officer having power to convene a general court-martial or by any officer empowered in this behalf by warrant of such officer.

155. *Limitation of powers of confirming authority.*—A warrant issued under section 153 or section 154 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

156. *Power to confirm finding and sentence of summary general court-martial.*—The findings and sentences of summary general courts-martial may be confirmed by the convening officer or if he so directs, by an authority superior to him.

157. *Power of confirming authority to mitigate, remit or commute sentences.*—(*1*) Subject to such restrictions, reservations or conditions as may be contained in any warrant issued under section 153 or section 154 and to the provisions of sub-section (*2*) and (*3*), a confirming authority may, when confirming the sentence of a court-martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any punishment or punishments lower in the scale laid down in section 73.

(*2*) A sentence of transportation shall not be committed for a sentence of imprisonment or detention for a term exceeding the term of transportation awarded by the court.

(*3*) A sentence of imprisonment shall not be committed for a sentence of detention for a term exceeding the term of imprisonment awarded by the court.

158. *Confirming of findings and sentences on board a ship.*—When any person subject to this Act is tried and sentenced by a court-martial while on board a ship, the finding and sentence so far as not confirmed and executed on board the ship, may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation.

159. *Revision of finding or sentence.*—(*1*) Any finding or sentence of a court-martial may be once revised by order of the confirming authority and on such revision, the court, if so directed by the confirming authority, may take additional evidence.

(*2*) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(*3*) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided that, if a general court-martial, it still consists of five officers, or, if a summary general or district court-martial, of three officers.

160. *Substitution of a valid finding or sentence for an invalid finding or sentence.*—(*1*) Where a finding of guilty by a court-martial, which has been confirmed, is found for any reason to be invalid or cannot be supported by the evidence, the authority which would have had power under section 177 to commute the punishment awarded by the sentence, if the finding had been valid, may substitute a new finding and pass a sentence for the offence specified or involved in such finding:

Provided that no such substitution shall be made unless such finding could have been validly made by the court-martial on the charge and unless it appears that the court-martial must have been satisfied of the facts establishing the offence.

(*2*) Where a sentence passed by a court-martial which has been confirmed not being a sentence passed in pursuance of a new finding substituted under sub-section (*1*), is found for any reason to be invalid, the authority referred to in sub-section (*1*) may pass a valid sentence.

(*3*) The punishment awarded by a sentence passed under sub-section (*1*) or sub-section (*2*) shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by, the sentence for which a new sentence is substituted under this section.

(*4*) Any finding substituted, or any sentence passed, under this section shall for the purposes of this Act and the rules made thereunder have effect as if it were a finding or sentence, as the case may be, of a court-martial.

161. *Remedy against finding and sentence of court-martial.*—Any person subject to this Act who considers himself aggrieved by a finding or sentence of a general, district or summary general court-martial may forward a petition, if before confirmation of such finding or sentence, to the authority or officer empowered to confirm it, and if after confirmation, to the Central Government, the Commander-in-Chief, or any prescribed officer, provided that such officer is superior in command to the one who confirmed such finding or sentence.

162. *Annulment of proceedings.*—The Central Government, the Commander-in-Chief or any prescribed officer may annul the proceedings of any court-martial on the ground that they are illegal or unjust.

## CHAPTER XIII

### Execution of Sentences

163. *Form of sentence of death.*—In awarding a sentence of death, a court-martial shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death,

164. *Commencement of sentence of transportation or imprisonment.*—Whenever any person is sentenced by a court-martial under this Act to transportation, imprisonment or detention the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the president.

165. *Execution of sentence of transportation.*—Whenever any sentence of transportation is passed under this Act or whenever any sentence of death be commuted to transportation, the commanding officer of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the civil prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

166. *Execution of sentence of imprisonment.*—(*1*) Whenever any sentence of imprisonment is passed under this Act or whenever any sentence of death or transportation is commuted to imprisonment, the confirming officer or such other officer as may be prescribed, shall, save as otherwise provided in sub-sections (*3*) and (*4*), direct either that the sentence shall be carried out by confinement in a military or air force prison or that it shall be carried out by confinement in a civil prison.

(*2*) When a direction has been made under sub-section (*1*) the commanding officer of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

(*3*) In the case of a sentence of imprisonment for a period not exceeding three months, the officer referred to in sub-section (*1*) may direct that the sentence shall be carried out by confinement in air force custody instead of in a civil or military or air force prison.

(*4*) On active service, a sentence of imprisonment may be carried out by confinement in such place as the officer commanding the forces in the field may from time to time appoint.

167. *Temporary custody of offender.*—Where a sentence of transportation or imprisonment is directed to be undergone in a civil prison, the offender may be kept in military or air force custody or in any other fit place, till such time as it is possible to send him to a civil prison.

168. *Execution of sentence of imprisonment in special cases.*—Whenever, in the opinion of an air or other officer commanding a group, any sentence or portion of a sentence of imprisonment cannot for special reasons, conveniently be carried out in a military or air force prison or in air force custody in accordance with the provisions of section 166 such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

169. *Conveyance of prisoner from place to place.*—A person under sentence of transportation or imprisonment may during his conveyance from place to place, or when on board ship, aircraft, or otherwise, be subject to such restraint as is necessary for his safe conduct and removal.

170. *Execution of sentence of detention.*—Whenever any sentence of detention is passed under this Act, or whenever any sentence of death, transportation or imprisonment is commuted to detention, the sentence shall be carried out by detaining the offender in any military or air force detention barracks, detention cells or other military or air force custody; and when the sentence is to be carried out by detention in any military or air force detention barracks, the commanding officer of the person under sentence or such other officer as

may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the detention barracks in which the person under sentence is to be detained, and shall forward the person under sentence to such detention barracks with the warrant.

171. *Communication of certain orders to prison officers.*—Whenever an order if duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil, military or air force prison or detained in a military or air force detention barracks, a warrant in accordance with such order shall be forwarded by the officer making the order, or his staff officer, or such other person as may be prescribed, to the officer in charge of the prison or detention barracks in which such person is confined.

172. *Execution of sentence of fine.*—When a sentence of fine is imposed by a court-martial under section 71 whether the trial was held within India or not, a copy of such sentence, signed and certified by the confirming officer may be sent to any Magistrate in India, and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898) or any corresponding law in force in an Acceding State, for the levy of fines as if it were a sentence of fine imposed by such Magistrate.

173. *Establishment and regulation of air force prisons.*—The Central Government may set apart any building or part of a building, or any place under its control, as an air force prison or detention barracks for the confinement of persons sentenced to imprisonment or detention under this Act.

174. *Informality or error in the order or warrants.*—Whenever a person is sentenced to transportation, imprisonment or detention under this Act, and is undergoing the sentence in any place or manner in which he might be confined under a lawful order or warrant in pursuance of this Act, the confinement of such person shall not be deemed to be illegal only by reason of any informality or error in or as respects the order, warrant or other document, or the authority by which, or in pursuance whereof such person was brought into or is confined in any such place, and any such order, warrant or document may be amended accordingly.

175. *Power to make rules in respect to prisons and prisoners.*—The Central Government may make rules providing—

(*a*) for the government, management and regulation of air force prisons and detention barracks;

(*b*) for the appointment, removal and powers of inspectors, visitors, governors and officers thereof;

(*c*) for the labour of prisoners undergoing confinement therein, and for enabling such prisoners or persons to earn by special industry and good conduct, a remission of a portion of their sentence;

(*d*) for the safe custody of such prisoners or persons and the maintenance of discipline among them and the punishment, by personal correction, restraint or otherwise, of offences committed by them;

(*e*) for the application to air force prisons or detention barracks of any of the provisions of the Prisons Act, 1894 (IX of 1894), relating to the duties of officers of prisons and the punishment of persons not being prisoners.

176. *Restriction of rule-making power in respect to corporal punishment.*—Rules made under section 175 shall not authorise corporal punishment to be inflicted for any offence, nor render the imprisonment more severe than it is under any law for the time being in force relating to civil prisons in India.

# CHAPTER XIV

## PARDONS, REMISSIONS AND SUSPENSIONS

177. *Pardon and remission.*—When any person subject to this Act has been convicted by a court-martial of any offence, the Central Government, the Commander-in-Chief, an air or other officer commanding a group, or the prescribed officer, may—

(*a*) either with or without conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded; or

(*b*) mitigate the punishment awarded; or

(*c*) commute such punishment for any less punishment or punishments mentioned in this Act:

Provided that a sentence of transporation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transporation awarded by the court; and a sentence of imprisonment shall not be commuted for a sentence of detention for a term exceeding the term of imprisonment so awarded;

(*d*) either with or without conditions which the person sentenced accepts, release the person on parole.

178. *Cancellation of conditional pardon, release on parole or remission.*—(*1*) If any condition on which a person has been pardoned or released on parole or a punishment has been remitted is, in the opinion of the authority which granted the pardon, release or remission, not fulfilled, such authority may cancel the pardon, release or remission, and thereupon the sentence of the court shall be carried into effect as if such pardon, release or remission had not been granted.

(*2*) A person whose sentence of transportation, imprisonment or detention is carried into effect under the provisions of sub-section (*1*) shall undergo only the unexpired portion of his sentence.

179. *Reduction of warrant officer or non-commissoned officer.*—When under the provisions of section 79 a warrant officer or a non-commissioned officer is deemed to be reduced to the ranks, such reduction shall, for the purpose of section 177 be treated as a punishment awarded by a sentence of a court-martial.

180. *Suspension of sentence of transportation, imprisonment or detention.*—(*1*) Where a person subject to this Act is sentenced by a court-martial to transportation, imprisonment or detention, the Central Government, the Commander-in-Chief or any officer empowered to convene a general or a summary general court-martial may suspend the sentence whether or not the offender has already been committed to prison or to air force custody.

(*2*) The authority or officer specified in sub-section (*1*) may in the case of an offender so sentenced direct that, until the orders of such authority or officer have been obtained, the offender shall not be committed to prison or to air force custody.

(*3*) The powers conferred by sub-sections (*1*) and (*2*) may be exercised in the case of any such sentence which has been confirmed, reduced or commuted.

181. *Orders pending suspension.*—A confirming officer may, when confirming any sentence referred to in section 180, direct that the offender be not committed to prison or to air force custody until the orders of the authority or officer specified in section 180 have been obtained.

182. *Release on suspension.*—Where a sentence is suspended under section 180, the offender shall forthwith be released.

183. *Computation of period of suspension.*—Any period during which the sentence is under suspension shall be reckoned as part of the term of such sentence.

184. *Order after suspension.*—The authority or officer specified in section 180 may, at any time while a sentence is suspended, order—

(*a*) that the offender be committed to undergo the unexpired portion of the sentence, or

(*b*) that the sentence be remitted.

185. *Reconsideration of case after suspension.*—(*1*) Where a sentence has been suspended, the case may at any time, and shall at intervals of not more than four months, be reconsidered by the authority or officer specified in section 180, or by any air or other officer not below the rank of squadron leader duly authorised by the authority or officer specified in section 180.

(*2*) Where on such reconsideration by the officer so authorised it appears to him that the conduct of the offender since his conviction has been such as to justify a remission of the sentence, he shall refer the matter to the authority or officer specified in section 180.

186. *Fresh sentence after suspension.*—Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then—

(*a*) if the further sentence is also suspended under this Act, the two sentences shall run concurrently;

(*b*) if the further sentence is for a period of three months or more and is not suspended under this Act, the offender shall also be committed to prison or air force custody for the unexpired portion of the previous sentence, but both sentences shall run concurrently; and

(*c*) if the further sentence is for a period of less than three months and is not suspended under this Act, the offender shall be so committed on that sentence only, and the previous sentence shall, subject to any order which may be passed under section 184 or section 185, continue to be suspended.

187. *Scope of power of suspension.*—The powers conferred by sections 180 and 184 shall be in addition to and not in derogation of, the power of mitigation, remission and commutation.

188. *Effect of suspension and remission on dismissal.*—(*1*) Where in addition to any other sentence the punishment of dismissal has been awarded by a court-martial, and such other sentence is suspended under section 180, then, such dismissal shall not take effect until so ordered by the authority or officer specified in section 180.

(*2*) If such other sentence is remitted under section 184, the punishment of dismissal shall also be remitted.

## CHAPTER XV

### RULES

189. *Power to make rules.*—(*1*) The Central Government may make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) Without prejudice to the generality of the power conferred by sub-section (*1*), the rules made thereunder may provide for—

(*a*) the removal, retirement, release or discharge from the service of persons subject to this Act;

(*b*) the amount and incidence of fines to be imposed under section 90;

(*c*) the specification of the punishment which may be awarded as field punishments under sections 77 and 82;

(*d*) the assembly and procedure of courts of inquiry, the recording of summaries of evidence and the administration of oaths or affirmations by such courts;

(*e*) the convening and constituting of courts-martial;

(*f*) the adjournment, dissolution and sitting of courts-martial;

(*g*) the procedure to be observed in trials by courts-martial and the appearance of legal practitioners thereat;

(*h*) the confirmation, revision and annulment of, and petitions against, the findings and sentences of courts-martial;

(*i*) the carrying into effect sentences of courts-martial;

(*j*) the forms of orders to be made under the provisions of this Act relating to courts-martial, transportation, imprisonment and detention;

(*k*) the constitution of authorities to decide for what persons, to what amounts and in what manner, provision should be made for dependants under section 100 and the due carrying out of such decisions;

(*l*) the relative rank of the officers, junior commissioned officers, warrant officers, petty officers and non-commissioned officers of the regular Army, Navy and Air Force when acting together;

(*m*) any other matter directed by this Act to be prescribed.

190. *Power to make regulations.*—The Central Government may make regulations for all or any of the purposes of this Act other than those specified in section 189.

191. *Publication of rules and regulations in Gazette.*—All rules and regulations made under this Act shall be published in the official Gazette and, on such publication, shall have effect as if enacted in this Act.

192. *Repeal.*—The Indian Air Force Act, 1932 (XIV of 1932) with the exception of sections 126 to 128L thereof, is hereby repealed.

## CHAPTER XVI

### Transitory Provisions

193. *Definition of "British officer".*—(*1*) In this Chapter "British officer" means a person of non-Indian domicile holding a commission in His Majesty's Air Forces and serving in the Air Force.

(*2*) The expression "superior officer" in this Act shall be deemed to include a British officer.

194. *Powers of British officer.*—A British officer shall have all the powers conferred by this Act on an officer of corresponding rank or holding a corresponding appointment.

## STATEMENT OF OBJECTS AND REASONS.

1. The Indian Air Force Act, 1932, is in large part modelled on the Indian Army Act, 1911, and departs from the latter Act principally in two Chapters, *viz.*, those on "Offences" and "Punishments". With the revision of the Indian Army Act a new Air Force Act has become inevitable and after an examination of the possibility of combining the two Acts into one it was decided that this course was not feasible but the more practicable and convenient course was to have two separate Acts but identical in their provisions with all necessary variations and adaptations of the Army Act required by the Air Force. The salient points of revision of these Acts have been set out in the Statement of Objects and Reasons to the Army Bill, 1949.

2. The opportunity afforded by a simultaneous revision of both Acts has been used to examine and, as far as possible, eliminate imparity and difference between them arising from their origin and history. Such points of difference as still remain and are not inherent in the subject-matter are those which are considered irremovable at the present stage.

3. A separate Bill is intended to take the place of sections 126 to 128L of the existing Act in regard to the property of deceased persons, deserters and lunatics and will be common to the Army and Air Force.

BALDEV SINGH.

NEW DELHI;

*The* 16*th December*, 1949.

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# PART IV

## Section 1-B

## ACTS OF THE CENTRAL LEGISLATURE AND ORDINANCES OF THE GOVERNOR-GENERAL WHICH APPLY TO MYSORE.

### NOTIFICATION

No. L.D. 1030—Legis. 18-49-13, dated Bangalore, 7th February 1950.

Ordered that the accompanying Undesirable Immigrants (Expulsion from Assam) Ordinance, 1950 (I of 1950), published in the *Gazette of India*, dated January 6, 1950, be republished in *Mysore Gazette* for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Legal Remembrancer and Secretary to Government, Law Department.*

GOVERNMENT OF INDIA

### MINISTRY OF LAW

*New Delhi, the 6th January,* 1950

### ORDINANCE No. I OF 1950.

AN

### ORDINANCE

*to provide for the expulsion from Assam of undesirable immigrants.*

WHEREAS a Bill to provide for the expulsion from Assam of undesirable immigrants has been introduced in the Dominion Legislature but has not yet been passed;

AND WHEREAS an emergency has arisen which makes it necessary immediately to provide for the expulsion from Assam of such immigrants;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(*1*) This Ordinance may be called the Undesirable Immigrants (Expulsion from Assam) Ordinance, 1950

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

2. *Power to order expulsion from Assam of undesirable immigrants.*—If the Central Government is satisfied that any person, having been ordinarily

resident in any place outside India, has, whether before or after the commencement of this Ordinance, come into Assam and that his stay in that Province is detrimental to the interests of India, the Central Government may by order—

(*a*) direct that person to remove himself from the Province of Assam within such time and by such route as may be specified in the order ; and

(*b*) give such further directions in regard to his removal from Assam as it may consider necessary or expedient.

3. *Delegation of power.*—The Central Government may, by notification in the official Gazette, direct that the powers and duties conferred or imposed on it by section 2 shall, subject to such conditions, if any, as may be specified in the notification, be exercised or discharged also by—

(*a*) any officer subordinate to the Central Government ;

(*b*) the Provincial Government of Assam or any officer subordinate to that Government.

4. *Power to give effect to orders, etc.*—Any authority empowered by or in pursuance of the provisions of this Ordinance to exercise any power may, in addition to any other action expressly provided for in this Ordinance, take or cause to be taken such steps, and use or cause to be used such force, as may in its opinion be reasonably necessary for the effective exercise of such power.

5. *Penalties.*—Any person who contravenes or attempts to contravene, or abets a contravention of, any order made under section 2, or fails to comply with any direction given by any such order, shall be punishable with imprisonment which may extend to three years and shall also be liable to fine.

6. *Protection to persons acting under this Ordinance.*—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Ordinance.

C. RAJAGOPALACHARI,
*Governor-General.*

## NOTIFICATION

No. L.D. 1031—Legis. 18-49-14, dated Bangalore, 7th February 1950.

Ordered that the accompanying Displaced Persons (Claims) Ordinance, 1950 (V of 1950), published in the *Gazette of India*, dated January 19, 1950, be republished in *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Legal Remembrancer and Secretary to Government, Law Department.*

GOVERNMENT OF INDIA

## MINISTRY OF LAW

*New Delhi, the 19th January,* 1950

## ORDINANCE No. V OF 1950.

AN

## ORDINANCE

*to provide for the registration and verification of claims of displaced persons in respect of immovable property in Pakistan.*

WHEREAS an emergency has arisen which makes it necessary to provide for the registration and verification of claims of displaced persons in respect of immovable property in Pakistan, with a view to the rehabilitation of such displaced persons;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(*1*) This Ordinance may be called the Displaced Persons (Claims) Ordinance, 1950.

(*2*) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Ordinance.

(*3*) It shall come into force at once.

2. *Definitions.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(*a*) "claim" means the assertion of a right to the ownership of, or to any interest in,—

(*i*) any immovable property in West Pakistan which is situate within an urban area, or which, being situate elsewhere, either forms part of the assets of an industrial undertaking or comprises one or more buildings the estimated cost of constructing which at the present prevailing rates is not less than Rs. 20,000; or

(*ii*) any agricultural land in any part of West Pakistan other than West Punjab;

(*b*) "displaced person" means any person who, on account of the setting up of the Dominions of India and Pakistan, or on account of civil disturbances or the fear of such disturbances in any area now forming part of Pakistan, has after the 1st day of March 1947 left, or been displaced from, his place of residence in such area and who has been subsequently residing in India and includes any person who is resident in any place in India and who for that reason is unable or has been made unable to manage, supervise or control any immovable property belonging to him in Pakistan;

(*c*) "prescribed" means prescribed by rules made under this Ordinance;

(*d*) "urban area" means any area within the limits of a corporation, a municipality, a municipal committee, a notified area committee, a town area, a small town committee or a cantonment, as those limits existed on the 15th day of August, 1947;

(*e*) "West Pakistan" means the territories of Pakistan excluding the Province of East Bengal.

3. *Power to appoint Registering Officers.*—The Central Government may, by notification in the official Gazette, appoint as many Registering Officers as may be necessary for the purpose of registering claims and every Registering Officer shall exercise his functions in such area or areas as may be specified in the notification.

4. *Power to appoint the Chief Claims Commissioner, etc.*—(*1*) The Central Government may, by notification in the official Gazette, appoint a Chief Claims Commissioner, and as many Claims Commissioners and Claims Officers as may be necessary for the purpose of discharging the duties imposed on them by or under this Ordinance, and may, by general or special order, provide for the distribution or allocation of work to be performed by them under this Ordinance.

(*2*) Subject to the provisions of this Ordinance, all Claims Commissioners and Claims Officers shall discharge the duties imposed on them by or under this Ordinance under the general superintendence and control of the Chief Claims Commissioner.

5. *Registration of claims.*—(*1*) A displaced person may, within such time and in such form as may be prescribed, submit his claim to a Registering Officer in the prescribed manner for the registration of such claim.

(*2*) On receipt of a claim under sub-section (*1*), the Registering Officer shall register the claim in the prescribed manner and forward the relevant papers to the Central Government.

6. *Jurisdiction of Claims Officers.*—(*1*) A Claims Officer shall have jurisdiction to decide such cases or such classes of cases as may, by general or special order, be transferred to him by the Central Government or by an officer empowered in this behalf by the Central Government.

(*2*) A Claims Officer shall hold a summary inquiry into the cases transferred to him and, after taking such evidence and examining such documents, as may be necessary, pass such orders as he thinks fit in relation to the verification of the claim and the valuation of such claim.

(*3*) The decision of the Claims Officer shall be final:

Provided that the Chief Claims Commissioner may call for the record of any case which has been decided by the Claims Officer and may make such order in the case as he thinks fit.

7. *Powers of Claims Officers.*—(*1*) A Claims Officer shall have the same powers as are vested in a civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit in respect of the following matters, namely:—

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of any document;

(*c*) requisitioning any public record from any Court or office;

(*d*) issuing commissions for the examination of witnesses;

(*e*) appointing guardians or next friends of any person who is a minor or of unsound mind;

(*f*) any other matter which may be prescribed.

(*2*) A Claims Officer may, if he so thinks fit, and shall, if so required by the Chief Claims Commissioner, appoint one or more persons as assessors to advise him in any proceeding before him.

(*3*) A Claims Officer shall be deemed to be a civil Court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898), and any proceeding before any such Claims Officer shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860).

8. *Power to transfer cases.*—The Central Government or the Chief Claims Commissioner may, by order in writing, at any stage transfer any case pending before a Claims Officer to another Claims Officer and the Claims Officer, to whom the case is so transferred, may, subject to any special direction in the order of transfer, proceed from the stage at which it was so transferred.

9. *Certain officers to be public servants.*—The Chief Claims Commissioner and all Claims Commissioners, Claims Officers and Registering Officers appointed under this Ordinance shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

10. *Bar of jurisdiction of Civil Courts.*—No Civil Court shall have jurisdiction in respect of any matter which the Chief Claims Commissioner or the Claims Officer is empowered by or under this Ordinance to determine, and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Ordinance.

11. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the Central Government or any person appointed under this Ordinance in respect of anything which is in good faith done or intended to be done in pursuance of this Ordinance or of any rules or orders made thereunder.

12. *Penalty.*—Any person who—

(*a*) submits, in respect of his claim under this Ordinance, any information which he knows to be false or does not believe to be true, or

(*b*) submits a claim in respect of the same property to more than one Registering Officer,

shall be punishable with imprisonment which may extend to three years or with fine, or with both.

13. *Penalty for abetment.*—Whoever abets any of the offences punishable under this Ordinance shall be punishable with the punishment provided for the offence.

14. *Cognizance of offences by Courts.*—No Court shall take cognizance of any offence punishable under this Ordinance save upon complaint in writing made by an officer authorised by the Central Government by general or special order in this behalf.

15. *Forfeiture of claims to any benefit for rehabilitation purposes.*—Any person who commits an offence punishable under this Ordinance may, without prejudice to any other penalty provided for in this Ordinance, forfeit his claim to any benefit for rehabilitation purposes to which he would otherwise be entitled or be required to surrender any benefit received by him for rehabilitation purposes.

16. *Delegation of powers.*—(*1*) The Central Government may, by general or special order, direct that any power exercisable by it under this Ordinance shall, subject to such conditions, if any, as may be specified in the order, be exercisable also by the Chief Claims Commissioner.

(*2*) Subject to the provisions of this Ordinance and the rules made thereunder, the Chief Claims Commissioner may delegate all or any of his powers under this Ordinance to any Claims Commissioner as may be specified by the Chief Claims Commissioner.

17. *Power to make rules.*—(*1*) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the form and manner in which claims may be submitted by displaced persons to Registering Officers ;

(*b*) the manner in which claims may be registered ;

(*c*) the manner in which any inquiry may be held by Claims Officers ; the procedure to be followed by Claims Officers ;

(*d*) the powers vested in a civil Court which may be exercised by a Claims Officer while holding any inquiry under this Ordinance ;

(*e*) any other matter which has to be, or may be, prescribed under this Ordinance.

C. RAJAGOPALACHARI,
*Governor-General.*

## NOTIFICATION

No. L.D. 1032—Legis. 18-49-15, dated Bangalore, 7th February 1950.

Ordered that the accompanying Armed Force (Miscellaneous Provisions) Ordinance, 1950 (VIII of 1950), and the United Provinces Terminal Tax on Railway Passengers Ordinance, 1950 (IX of 1950), published in the *Gazette of India*, dated January 23, 1950, be republished in *Mysore Gazette* for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Legal Remembrancer and Secretary to Government, Law Department.*

GOVERNMENT OF INDIA

## MINISTRY OF LAW

*New Delhi, the 23rd January* 1950

## ORDINANCE No. VIII OF 1950.

AN

## ORDINANCE

*to make certain additional provisions respecting the Armed Forces, for ensuring the proper discharge of their duties and for the maintenance of discipline among them.*

WHEREAS an emergency has arisen which renders it necessary to make certain additional provisions respecting the Armed Forces for ensuring the proper discharge of their duties and for the maintenance of discipline among them;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(*1*) This Ordinance may be called the Armed Forces (Miscellaneous Provisions) Ordinance, 1950.

(*2*) It shall come into force at once.

2. *Definition.*—In this Ordinance, the expression "Armed Forces" means the military, naval or air forces of the Dominion.

3. *Ineligibility of females for employment in certain branches of the Armed Forces.*—(*1*) No female shall be eligible for employment in the Armed Forces, except in such corps, department, branch or other body forming part of, or attached to any portion of, the Armed Forces as the Central Government, may, by notification in the official Gazette, specify in this behalf.

(2) Nothing contained in sub-section (1) shall affect the provisions of any law for the time being in force providing for the raising and maintenance of any service auxiliary to the Armed Forces or any branch thereof in which females are eligible for employment.

4. *Power to regulate certain matters relating to the Armed Forces by rules.*—Subject to the provisions of any law for the time being in force relating to the Armed Forces or to any branch thereof, the Central Government may, by notification in the official Gazette, make rules—

(a) restricting the right of any person belonging to the Armed Forces or any branch thereof to be a member of, or to be associated in any way with, any trade union or labour union or any class of trade or labour unions, or any society, institution or association or any class of societies, institutions or associations;

(b) restricting the right of any person belonging to the Armed Forces or any branch thereof to attend or address any meeting, or to take part in any demonstration, organised by any body of persons for any political or other purposes;

(c) restricting the right of any person belonging to the Armed Forces or any branch thereof to communicate with the press or to publish, or cause to be published, any book, letter or other document;

(d) providing for the manner in which and the period for which any person belonging to the Armed Forces or any branch thereof may be taken into and detained in military, naval or air force custody, as the case may be, pending the trial by any competent military, naval or air force authority for any offence committed by him under any law for the time being in force;

(e) prescribing the procedure to be observed at the trial of offences committed by persons belonging to the Armed Forces by any competent military, naval or air force authority;

(f) regulating the appearance of legal practitioners at any trial held by any such authority as is referred to in clause (e).

5. *Continuation of existing rules, regulations, etc.*—All rules, regulations, orders, directions and instructions relating to members of the Armed Forces or any branch thereof made or issued before the commencement of this Ordinance by or under the authority of the Central Government or of any of the Commanders-in-Chief of the Army, Navy or Air Force, as the case may be, or by any other competent authority shall, in so far as they relate to any of the matters dealt with in this Ordinance, have effect as if they were rules made under this Ordinance.

C. RAJAGOPALACHARI,
*Governor-General.*

# ORDINANCE No. IX OF 1950.

AN

# ORDINANCE

*to provide for the levy for a temporary period of a terminal tax on passengers carried by railway to and from certain railway stations in the United Provinces.*

WHEREAS an emergency has arisen which makes it necessary to provide for the levy for a temporary period of a terminal tax on passengers carried by railway to and from certain railway stations in the United Provinces;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(*1*) This Ordinance may be called the United Provinces Terminal Tax on Railway Passengers Ordinance, 1950.

(*2*) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Ordinance.

(*3*) It shall come into force at once.

2. *Levy of terminal tax on passengers carried by railway to and from certain railway stations in the United Provinces.*—(*1*) There shall be levied on all passengers carried by railway—

(*a*) from any railway station to the railway station at Hardwar, Jawalapur or Rishikesh or from the railway station at Hardwar, Jawalapur or Rishikesh to any other railway station, a terminal tax at the rates specified in Part I of the Schedule; and

(*b*) from any railway station to the railway station at Mathura or Vrindaban or from the railway station at Mathura or Vrindaban to any other railway station, a terminal tax at the rates specified in Part II of the Schedule.

(*2*) The terminal tax leviable under this Ordinance shall,—

(*a*) in cases falling within clause (*a*) of sub-section (*1*), be leviable for the period commencing on the 1st day of February, 1950, and ending with the 30th day of April, 1950; and

(*b*) in cases falling within clause (*b*) of sub-section (*1*), be leviable for the period commencing on the 25th day of January, 1950, and ending with the 15th day of March, 1950.

3. *Suspension of levy of certain existing pilgrim taxes during period of levy of tax under this Ordinance.*—For the period during which any terminal tax is leviable under this Ordinance, the taxes on persons travelling by railway to and from Hardwar, Jawalapur, Rishikesh, Mathura and Vrindaban levied under the provisions of the United Provinces Municipalities Act, 1916 (U. P. Act II of 1916), shall cease to be payable, but after the expiration of the said period the said taxes shall become payable at the same rates as would have been the case if this Ordinance had not been promulgated.

4. *Mode of recovery of tax.*—The terminal tax leviable under this Ordinance may be collected by any railway administration, and, where it is so collected, the railway administration shall have all the powers and remedies for the recovery thereof as though the same were a rate or fare which such railway administration is empowered to levy under the Indian Railways Act, 1890 (IX of 1890).

5. *Power to exempt.*—The Government of the United Provinces may, by notification in the official Gazette, exempt, to such extent, in such circumstances or subject to such conditions as may be specified in the notification, any persons or class of persons from the operation of this Ordinance.

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## THE SCHEDULE.

(*See* section 2)

### PART I.

| Class of accommodation. | Rates of terminal tax. |
|---|---|
| 1 | 2 |
| I | Rs. 1-8-0. |
| II (Special) | Re. 1. |
| II (Ordinary) | Eight annas, if the distance to be travelled by railway before reaching the destination is less than 50 miles; ten annas, if otherwise. |
| III | Six annas, if the distance to be travelled by railway before reaching the destination is less than 50 miles; eight annas, if otherwise. |

### PART II.

| | |
|---|---|
| I | Twelve annas. |
| II (Special) | Eight annas. |
| II (Ordinary) | Four annas, if the distance to be travelled by railway before reaching the destination is less than 50 miles; five annas, if otherwise. |
| III | Three annas, if the distance to be travelled by railway before reaching the destination is less than 50 miles; four annas, if otherwise. |

C. RAJAGOPALACHARI,
*Governor-General.*

## NOTIFICATION

No. L.D. 1033—Legis. 18-49-16, dated Bangalore, 7th February 1950.

Ordered that the accompanying Parliament (Prevention of Disqualification) Ordinance, 1950 (XII of 1950) and the High Courts (Seals) Ordinance, 1950 (XIII of 1950) published in the *Gazette of India*, Extraordinary, dated January 26, 1950, be republished in the *Mysore Gazette* for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Legal Remembrancer and Secretary to Government, Law Department.*

GOVERNMENT OF INDIA

## MINISTRY OF LAW

*New Delhi, the 26th January, 1950*

## THE PARLIAMENT (PREVENTION OF DISQUALIFICATION) ORDINANCE, 1950.

### ORDINANCE No. XII OF 1950.

AN

### ORDINANCE

*to declare certain offices of profit under the Government of India or the Government of a State to be offices the holding of which shall not disqualify the holder thereof for being chosen as, and for being, a member of Parliament.*

WHEREAS, Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. *Short title and commencement.*—(*1*) This Ordinance may be called the Parliament (Prevention of Disqualification) Ordinance, 1950.

(*2*) It shall come into force at once.

2. *Prevention of disqualification for membership.*—A person shall not be disqualified for being chosen as, and for being, a member of Parliament by reason only of the fact that he holds any of the following offices of profit under the Government of India or the Government of any State, namely :

(*a*) an office of a Minister of State or a Deputy Minister, or a Parliamentary Secretary or a Parliamentary Under-Secretary ; and

(*b*) an office which is not a whole-time office remunerated either by salary or fees.

## THE HIGH COURTS (SEALS) ORDINANCE, 1950.

### ORDINANCE No. XIII OF 1950.

AN

### ORDINANCE

*to provide for the use of seals of common form and design by the High Courts in the States.*

WHEREAS Parliament is not in session, and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(*1*) This Ordinance may be called the High Courts (Seals) Ordinance, 1950.

(*2*) It shall come into force at once.

2. *Seals of High Courts.*—(*1*) Every High Court in a Part A State or Part B State shall have and use, as occasion may arise, a seal bearing a device and impression of the Asoka Capital within a exergue or label surrounding the same, with the following inscriptions at convenient places, namely, "THE SEAL OF THE HIGH COURT AT (or OF).....", followed by the name of the seat of the High Court or the name of the State, as the case may be, and "Satyameva Jayate" in Devanagari script.

(*2*) Every Court of the Judicial Commissioner for a Part C State shall have and use, as occasion may arise, a seal similar to the seal of a High Court in a Part A State, but with the first inscription reading "THE SEAL OF THE JUDICIAL COMMISSIONER'S COURT FOR....." followed by the name of the State.

(*3*) The provisions of this Ordinance shall supersede any provision contrary thereto or inconsistent therewith contained in any Letters Patent, Order, direction or other law relating to the use of seals by High Courts.

RAJENDRA PRASAD,
*President.*

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# PART IV

## Section 1-C

## NOTIFICATIONS, RULES, ORDERS, ETC., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

### NOTIFICATION

No. L.D. 1034—Legis. 18-49-17, dated Bangalore, 7th February 1950.

Ordered that the accompanying Notification No. 893–T.G., dated January 31, 1950, of the Ministry of Railways (Railway Board) published in the *Gazette of India,* dated January 31, 1950, be republished in the *Mysore Gazette* for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Legal Remembrancer and Secretary to Government, Law Department.*

GOVERNMENT OF INDIA

### MINISTRY OF RAILWAYS

(Railway Board)

### NOTIFICATION

*New Delhi, the 31st January* 1950

*No. 893-T.G.*—In pursuance of sub-section (2) of section 1 of the Indian Railways (Amendment) Act, 1949 (LVI of 1949), the Central Government is pleased to appoint the 31st January 1950 as the date on which section 13 of the said Act shall come into force.

S. S. RAMASUBBAN, Secy.

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## PART IV.

### Section 2-B

### NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS,

### NOTIFICATIONS.

No. 10646—C.B. 253-49-2, dated Bangalore, 25th January 1950.

Under Clause (2) of Article 166 read with Clause (1) of Article 238 of the Constitution of India, His Highness the Maharaja, Sri Jaya Chamaraja Wadiyar Bahadur, Rajpramukh of Mysore is pleased to make the following rules, namely :

Orders or Instruments made and executed in the name of the Rajpramukh of Mysore shall be authenticated by the signature of a Secretary, an Under Secretary or an Assistant Secretary to the Government of Mysore.

JAYA CHAMARAJA WADIYAR,

*Rajpramukh of Mysore.*

No. 10647—C.B. 253-49-3, dated Bangalore, 14th February 1950.

In view of Notification No. 10646—C. B. 253-49-2, dated 26th January 1950 issued by His Highness the Maharaja, *Rajpramukh* of Mysore, Government Notification No. 9847—C. B. 253-49-1, dated 26th January 1950 is hereby cancelled.

By Order of His Highness the Maharaja,

K. SRINIVASAN,
*Chief Secretary.*

No. S.R. 3502-3—Ex. 85-49-4, dated Bangalore, 4th February 1950.

In exercise of the powers conferred by clause (*d*) of section 28 of the Mysore Prohibition Act, 1948 (XXXVII of 1948), the Government of Mysore are pleased to appoint the Excise Assistant Inspectors attached to the Excise and Prohibition Intelligence Bureau in Mysore as Prohibition Assistant Inspectors and to direct that they shall exercise all the powers and perform all the duties of a Prohibition Officer:

Provided that a Prohibition Assistant Inspector shall not be competent to exercise any powers or perform any duty which only the Commissioner or a Deputy Commissioner can exercise or perform under the said Act.

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No. S. R. 3504-5—Ex. 85-49-3, dated 4th February 1950.

In exercise of the powers conferred by clauses (d) and (f) of Section 28 of the Mysore Prohibition Act, 1948, (Act XXXVII of 1948), the Government of Mysore are pleased to appoint the Excise Inspector, Excise and Prohibition Intelligence Bureau in Mysore, to be Assistant Prohibition Officer, in the areas in which the said Act is in force and to exercise all the powers and to perform all the duties of a Prohibition Officer under the Act except those under Section 31.

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No. S.R. 3506-7—Ex. 85-49-5, dated Bangalore, 4th February 1950.

In exercise of the powers conferred by clause (*d*) of section 28 of the Mysore Prohibition Act, 1948 (XXXVII of 1948), the Government of Mysore are pleased to appoint

the Peons of the Excise and Prohibition Intelligence Bureau in Mysore as Prohibition Guards to exercise the powers and perform the duties of a Prohibition Officer under sections 35 and 36 of the said Act. The said Prohibition Guards shall also be deemed to be Prohibition Officers for purposes of sections 38, 39, 40 and 59 of the said Act.

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## ADDENDA.

No. L.B. 8230-40—V. P. 32-49-7, dated Bangalore, 4th February 1950.

The following Rule may be added as Rule 15 under Appendix I and Appendix II of the Rules issued for the guidance of the District and Taluk Development Committees in Government Order No. L.B. 7471-7505—V.P. 45-48-25, dated 22nd February 1949 :—

"If any member absents himself voluntarily for three consecutive meetings in spite of the receipt of the notice, he shall cease to be a member of the above Committee and Government may appoint some other person in his place."

SYED ABDUL ALEEM,

*Secretary to Government,*
*Revenue Department.*

No. D. 9300—I. & C. 226-49-7, dated Bangalore, 13—14th February 1950.

In exercise of the powers conferred by Section 6 of the Provident Funds Act, 1916, (IX of 1916), the Government of Mysore are pleased to extend the provisions of the said Act to the Provident Fund established for the benefit of its employees by the Mysore Glass and Enamel Works, Ltd., being a company registered according to law in Mysore.

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No. D. 9058-62, dated Bangalore, 16th February 1950.

In exercise of the powers conferred by Section 3 of the Mysore Power Alcohol Act of 1939 (VIII of 1939) and in modification of the Notifications noted below the Rajpramukh of Mysore, His Highness the Maharaja, is pleased to direct that in the local areas in

which the Act is in force, no petrol shall with effect from *20th February 1950* be sold or kept for sale except with an admixture of alcohol manufactured in the Distillery, established by the Mysore Sugar Company, Ltd., at Mandya, and that the proportion of petrol and alcohol in the admixture shall be 92½ per cent and 7½ per cent respectively by volume.

1. No. D 4984—I & C 44-48-8, dated 25th January 1949
Amended in
No. D 5440—I & C 44-48-20, dated 8th February 1949
2. No. D 5441—I & C 44-48-9, dated 25th January 1949
Amended in
No. D 6325—I & C 44-48-28, dated 17th March 1949.

By Order of His Highness the Maharaja,

B. T. KEMPANNA,
*Secretary to Government,*
*Development Department.*

No C. 1295—Co. 23-49-31, dated Bangalore, 18th February 1950.

In exercise of the powers conferred by section 3 and clause (*a*) of sub-section (1) of section 4 of the Mysore Drugs (Control) (Emergency) Act, 1949 (Act No. LXVIII of 1949), the Government of Mysore are pleased to direct that the following further amendment shall be made in the Schedule to notification No. C. 3130—Co., dated the 3rd October 1949, published in Part IV, Section 2-B, of the *Mysore Gazette* Extraordinary, dated the 3rd October 1949, namely,—

In respect of the drugs in the said schedule specified in column 1 hereunder which are manufactured by the Upjohn Company, U.S.A., for the prices specified in column 2 of the said Schedule, the prices specified in column 2 hereunder shall be substituted.—

THE UPJOHN COMPANY, U.S.A.

| | | | | Rs. | a. | p. |
|---|---|---|---|---|---|---|
| C. T. Thiamate (Vitamin B1) | 5 mg. | 100's | ... | 3 | 8 | 0 |
| S. S. Thiamate (Vitamin B1) | 10 mg. | 6 x 1cc | ... | 2 | 0 | 0 |

By Order of His Highness the Maharaja,

A. S. KHALEEL,
*Secretary to Government,*
*Food and Agriculture Departments.*

No. L. S. 3137—Law. 180-49-2, dated Bangalore, 16th February 1950.

The following Draft Rules, which the Government of Mysore propose to make in exercise of the powers conferred by sub-section (2) of Section 33 of the Mysore Factories Act, 1936 (I of 1936), are hereby published as required by Section 18 of the said Act for the information of all persons likely to be affected thereby.

Notice is hereby given that objections or suggestions, if any, may be forwarded for consideration to the Secretary to Government, Law Department, so as to reach him within three months from the date of publication of these Draft Rules in the Gazette. Objections or suggestions received after that date will not be considered.

## Draft Rules.

After Rule 95 of the Mysore Factories (Amendment) Rules, 1936, the following rule shall be inserted, *viz.*—

### MAINTENANCE OF CRECHES.

*Under Section 33 (2).*

"95-A: In every factory in which more than fifty women workers are ordinarily employed, a suitable room shall be reserved for the use of children under the age of six years belonging to such women and maintained as a Creche. The standards for such Creches and the nature of supervision to be exercised over the children therein shall be as follows:

(1) The Creche shall be provided with sanitary utensils and sufficient supply of hot and cold water.

(2) A trained nurse or a midwife with the menial staff (two ayahs and two sweepers) should be employed for attending to the children occupying the Creche. A washerman (dhoby) shall also be employed for washing the linen used in the Creche.

(3) The children of the Creche shall be provided with suitable iron cots with necessary bedding and clothing.

(4) The supervision of the Creche shall be entrusted to the Doctor attached to the factory or to a visiting Doctor. The Doctor, in addition to the supervising work, shall attend to the minor ailments of the children. Weekly or fortnightly visits of a Woman Doctor shall be arranged for holding Ante-Natal Clinic.

No. L.S. 3189—L.W. 115-49-7, dated Bangalore, 20th February 1950.

Whereas His Highness the Maharaja of Mysore is of opinion that all classes of employment in the Automobile Transport Services in the State are essential for the maintenance of supplies and services necessary to the life of the community,

Now therefore in exercise of the powers conferred by Section 3 of the Essential Services (Maintenance) Act, 1942 (Act No. XXII of 1942), and in supersession of Notification No. L.S. 1750—L.W. 115-49-4, dated 28th November 1949, His Highness the Maharaja of Mysore is pleased to declare all classes of employment in the Automobile Transport Services in the State to be classes of employment to which the provisions of the said Act shall apply.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Secretary to Government,*
*Law Department.*

## ERRATUM.

No. L. 8968—C.M. 49-49-26, dated Bangalore, 20th February 1950.

In page 6 of the Notification No. L. 5479—C.M. 49-49-14, dated 7th December 1949, relating to the boundaries of 50 territorial divisions of the City of Bangalore, please *substitute* the following boundaries in respect of Mavalli Division, No. 24—

*East*—Municipal boundary;
*West*—East Road;
*North*—Lalbagh Fort Road, Lalbagh High Road, Sunkal Farm Road, meeting Municipal boundary towards EAST;
*South*—Northern boundary of the 23rd Division as already notified, *viz.*, Kankanapalya Road (starting from East Road, Basavangudi and meeting at the Municipal boundary on the East).

By Order,

A. C. NIRVANI GOWDA,
*Secretary to Government,*
*Local Self-Government Department.*

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# The Mysore Gazette

(PUBLISHED BY AUTHORITY)

EXTRAORDINARY

BANGALORE, WEDNESDAY, MARCH 1, 1950.

## PART IV

### Section I-C

**NOTIFICATIONS, RULES, ORDERS, Etc., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.**

### NOTIFICATION.

No. L.D. 1201—L.A. 36-49-2, dated Bangalore, 1st March 1950.

The following Order made by the Rajpramukh of Mysore His Highness the Maharaja is published for general information :—

**Order.**

I, Jaya Chamaraja Wadiyar, Rajpramukh of Mysore, hereby appoint the Speaker and Deputy Speaker of the Mysore Legislative Assembly to be persons before either of whom Members of the said Assembly may make and subscribe the Oath or Affirmation in accordance with the provisions of Article 188 of the Constitution of India.

JAYA CHAMARAJA WADIYAR,

*Maharaja of Mysore.*

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Legal Remembrancer and Secretary to Government, Law Department.*

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# The Mysore Gazette

(PUBLISHED BY AUTHORITY)

Vol. 85] BANGALORE, THURSDAY, MARCH 2, 1950 [No. 9


## PART IV

### Section—1-B.

### ACTS OF PARLIAMENT AND ORDINANCES OF THE PRESIDENT WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L.D. 1179—Legis. 18-49-18, dated Bangalore, the 25th February 1950.

Ordered that the accompanying Rehabilitation Finance Administration (Amendment) Act (Act I of 1950) published in the Gazette of India, Extraordinary, dated 21st February, 1950, be re-published for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Legal Remembrancer and Secretary to Government, Law Department.*

Received Assent on 18th February 1950.

ACT No. I of 1950.

# THE REHABILITATION FINANCE ADMINISTRATION (AMENDMENT) BILL, 1950.

AN

ACT

*to amend the Rehabilitation Finance Administration Act, 1948.*

BE it enacted by Parliament as follows :—

1. **Short title.**—This Act may be called the Rehabilitation Finance Administration (Amendment) Act, 1950.

2. **Amendment of section 1, Act XII of 1948.**—In section 1 of the Rehabilitation Finance Administration Act, 1948 (hereinafter referred to as the said Act), for sub-section (*2*) the following sub-section shall be substituted, namely :—

"(*2*) It extends to the whole of India except the State of Jammu and Kashmir."

3. **Amendment of Section 2, Act XII of 1948.**—In section 2 of the said Act,—

(*1*) in clause (*d*),—

(*a*) in sub-clause (*i*), for the words "outside India", the words "now forming part of Pakistan" shall be substituted ; and

(*b*) in sub-clause (*ii*), for the words "outside India", the words "in any area now forming part of Pakistan", shall be substituted ; and

(*2*) for clause (*e*), the following clause shall be substituted, namely :—

'(*e*) "loan" means a sum of money advanced by the Administration—

(*i*) to a displaced person for the purpose of any business or industry in which he is engaged or intends to engage himself, or

(*ii*) in respect of any business or industry, a substantial portion of which is owned by displaced persons; and ".

**4. Amendment of section 3, Act XII of 1948.**—In sub-section (*1*) of section 3 of the said Act, the following words shall be added at the end, namely:—

"or to any business or industry, a substantial portion of which is owned by displaced persons".

**5. Amendment of section 4, Act XII of 1948.**—In section 4 of the said Act, in clauses (*b*) and (*c*), for the word "three" the word "four" shall be substituted.

**6. Amendment of section 10, Act XII of 1948.**—In section 10 of the said Act,—

(*i*) the words "and with the prior sanction of the Central Government" shall be omitted; and

(*ii*) to that section the following proviso shall be added, namely:—

"Provided that the appointment and the fixation of the salary, allowances and other conditions of service of the Deputy Chief Administrator and such other officers as may be prescribed by the Central Government, shall be subject to the previous sanction of that Government."

**7. Amendment of section 11, Act XII of 1948.**—In sub-section (*2*) of section 11 of the said Act, for the words "All moneys belonging to the Administration", the words "Subject to any regulations that may be made in this behalf, all moneys belonging to the Administration which are not immediately required by the Administration for any purpose" shall be substituted.

**8. Amendment of section 16, Act XII of 1948.**—In sub-section (*1*) of section 16 of the said Act, for the words and figures "section 144 of the Indian Companies Act, 1913 (VII of 1913)", the words and figures "the Chartered Accountants Act, 1949 (XXXVIII of 1949)" shall be substituted.

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# PART IV

## Section 1-C.

**NOTIFICATIONS, RULES, ORDERS, Etc., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.**

## NOTIFICATION.

No. L.D. 1204—Legis. 18-49-19, dated Bangalore, 28th February—1st March 1950.

Ordered that the accompanying Notification No. PHA. 20-40—49, dated the 7th February 1950 of the Ministry of Communications, Government of India, published in the *Gazette of India*, dated February 18, 1950, be republished in the *Mysore Gazette* for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Legal Remembrancer and Secretary to Government, Law Department.*

## MINISTRY OF COMMUNICATIONS.

### POSTS AND TELEGRAPHS

*New Delhi, 7th February 1950.*

No. PHA-20-40—49.—In exercise of the powers conferred by Section 7 of the Indian Telegraph Act, 1885 (XIII of 1885), and in supersession of the Notification No. PHA-20-40--49 of the Government of India in the Ministry of Communications, dated the 19th December 1949, the Central Government is pleased to direct that the following amendments shall be made in the Indian Telegraph Rules, 1932, namely :—

In the said Rules.—

(1) in item (ii) of sub-rule (1) of Rule 452, the entry "Baroda City" shall be inserted at the commencement;

(2) after Rule 475-A, the following rule shall be inserted, namely :—

"475-B. Rules 435 to 438, 451 to 457A, 462 to 464, 466 to 468 and 471 to 474 shall not, except as otherwise expressly provided in any such rule, apply to the following telephone systems previously owned by the respective State Governments and now taken over by the Central Government :—

Baroda
Bhopal
Kolhapur
Rampur
Tehri Garhwal

K. V. VENKATACHALAM,
*Deputy Secretary.*

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at the Government Press, Bangalore

# PART IV.

## Section 2-B

## NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS.

## NOTIFICATIONS.

No. L. 9184—C.M. 57-49-14, dated Bangalore, 25th February 1950.

In exercise of the powers conferred by sub-section (1) of Section 68 of the City of Bangalore Municipal Corporation Act, 1949 (LXIX of 1949) the Government of Mysore are pleased to make the following further amendments to the rules framed under Government Notification No. L. 6613—C.M. 57-49-2, dated the 6th January 1950 and to the subsequent amended Notification No. L. 8036—C.M. 57-49-11, dated the 28th January 1950, in regard to the preliminary publication of the electoral rolls for the fifty divisions referred to in sub-section 48 and for the Labour electorates referred to in section 51 of the said Act:—

**Amendments.**

1. In line 2 of Rule 2, substitute the words "till the 18th March 1950" for the words 'fifteen days'.

2. In clause (2) of Rule 3, substitute the words 'in the afternoon of the 18th March 1950 in respect of territorial divisions and labour electorates', for the words 'in the afternoon of the 30th January 1950 in respect of territorial divisions and the 6th February 1950 in respect of labour electorates'.

3. In clause (1) of Rule 9, for the words 'on the 13th February 1950 in respect of the territorial divisions and the 20th day of February 1950 in respect of labour electorates', substitute the words 'on the 25th day of March 1950 in respect of the territorial divisions and the labour electorates'.

By Order of His Highness the Maharaja,

A. C. NIRVANI GOWDA,

*Secretary to Government,*

*Local Self-Government Department.*

No. S.D. 7092—C. 73-49-68, dated Bangalore, 27th February 1950.

In exercise of the powers conferred by Rules 75-A, 75-B and Rule 81 of the Defence of India Rules as applied to Mysore and continued by the Supplies, Services and Miscellaneous Provisions (Temporary Powers) Act, 1947 (XX of 1947), the Rajpramukh of Mysore His Highness the Maharaja is pleased to direct that the following further amendment shall be made in the Articles of Food Acquisition (Harvest) Order, 1949 issued in Notification No. S.D. 4054—C. 73-49-4, dated 21st November 1949 and to direct with reference to sub-rule (1) of Rule 119 of the said rules, that notice of this amendment shall be given by publication of the same in the *Mysore Gazette* :—

For Clause 19 of the said Order, the following clause shall be substituted, namely :—

"19. Whoever contravenes any of the provisions of this Order shall be punishable under Rules 75-A, 75-B and 81 of the Defence of India Rules as applied to Mysore and any property in respect of which the Court is satisfied that the Order has been contravened shall be forfeited to the Government."

By Order of His Highness the Maharaja,

A. S. KHALEEL,
*Secretary to Government,*
*Food and Agricultural Departments.*

HOME DEPARTMENT.

No. H. 13171—Pris. 77-49-2, dated Bangalore, 24th February 1950.

In exercise of the powers conferred by sub-section 26 of Section 61 of the Mysore Prisons Act No. XLIV of 1943, His Highness the Maharaja of Mysore is pleased to make the following amendments to the Mysore Jail Manual Volume I, namely :—

"Delete the Chapter LIV of the Mysore Jail Manual Volume I."

By Order of the Rajpramukh
His Highness the Maharaja,

B. S. PUTTASWAMY,
*Secretary to Government,*
*Law Department.*

## NOTIFICATION.

No. 1945—L.A., Bangalore, dated 23rd February 1950.

In exercise of the powers conferred on him by clause (2) of Article 208 read with Article 238 of the Constitution of India, the Speaker of the Mysore Legislative Assembly is pleased to direct that the Mysore Legislative Rules and the Legislative Assembly Standing Orders in force immediately before the commencement of the said Constitution shall have effect in relation to the Mysore Legislative Assembly subject to the modifications and adaptations hereinafter appearing, namely :—

**1.** For the words "the Act" wherever they occur in the Rules and Standing Orders, the words "the Constitution" shall be substituted.

**2.** In sub-rule (1) of Rule 2 of the said rules for the definition of "the Act" the following definition shall be substituted:—

"the Constitution" means "the Constitution of India".

**3.** After Rule 2, the following rule shall be added :—

### "PART II.

**Address by His Highness the Maharaja.**

3. (1) On the day appointed by His Highness the Maharaja for the commencement and holding of a session of the Assembly (not being a new Assembly) and in the case of a new Assembly at the first sitting of the Assembly after the election of the Speaker, His Highness shall address the Assembly as required by Article 176 of the Constitution.

(2) The Speaker shall report to the Assembly, as soon thereafter as may be convenient, that His Highness the Maharaja was pleased to make a speech to the Assembly and place a copy of it on the table of the House.

(3) Any member of the majority party may then move that an Address be presented to His Highness the

Maharaja expressing the thanks of the Assembly for his speech.

(4) Any member may before such time as may be fixed by the Speaker give notice of amendments to such a motion by way of adding additional words at the end of the Address but not otherwise.

(5) The debate on the Address shall take precedence over all other business except questions, formal business, urgent motions and urgent Bills and shall take place on such day or days as the Speaker in consultation with the Chief Minister shall fix for this purpose.

(6) The Address having been adopted with or without amendment shall be presented to His Highness the Maharaja by the Speaker in such manner as His Highness may prescribe.

(7) The Speaker shall report to the Assembly His Highness the Maharaja's reply to the Address."

**4.** In Rule 7-A—

(i) in sub-rule (1) for the words "the Government" the words "His Highness the Maharaja" shall be substituted.

(ii) in sub-rule (8) the words "or if His Highness the Maharaja withholds his approval to any election" and the proviso to the sub-rule shall be omitted.

**5.** In Rule 7-B—

(i) in sub-rule (1) for the words "the Government" the words "His Highness the Maharaja" shall be substituted.

(ii) in sub-rule (3) the words "or if His Highness the Maharaja withholds his approval to any election" and the proviso to the sub-rule shall be omitted.

**6.** In Rule 8, the words "except with the consent of the Chief Minister" shall be added at the end and the following proviso shall be added to this rule:—

"Provided that on a motion made by a Minister for the suspension of this rule the Assembly may resolve to transact Government business on a day allotted for non-official business, in which case the time so used shall

be made available for the transaction of non-official business on such other day allotted for Government business as the Chief Minister may determine."

**7.** For Rule 9, the following rule shall be substituted :—

"9. (1) Subject to the provisions of these rules, a question may be asked for the purpose of obtaining information on a matter of public interest or importance relating to the administration of the State.

(2) In matters which are or have been the subject of a controversy between the Government and the Government of India or any other State, no question shall be asked except as to matters of fact and the answer shall be confined to a statement of fact."

**8.** For Rule 10, the following rule shall be substituted :—

"10. A member who wishes to ask a question shall give notice at least twelve clear days before the commencement of the session at which he desires to put the question and shall together with the notice submit a copy of the question he wishes to ask :

Provided that the Speaker may with the consent of the Minister in charge of the Department to which the question relates allow a question to be put at shorter notice :

Provided also that no member shall, unless he has obtained the special permission of the Speaker, be permitted to send in notice for one session of more than eight questions."

**9.** Rule 13 shall be renumbered as sub-rule (2) of that rule ; and before sub-rule (2) as so renumbered, the following sub-rule shall be added namely,—

"(1) The Speaker may within a period of notice disallow any question or any part of a question on the ground that it relates to a matter which is not primarily the concern of the Government and if he does so, the question or part of the question shall not be placed on the list of questions ".

**10.** Rule 14 shall be omitted.

**11.** In Rule 20—

(i) for item (iv) the following shall be substituted :—

"(iv) The motion must not anticipate a matter which has been previously appointed for consideration. In determining whether a discussion is out of order on the ground of anticipation, regard shall be had by the Speaker to the probability of the matter anticipated being brought before the Assembly within a reasonable period of time ;"

(ii) after item (v) the following item shall be added :—

"and (vi) The motion must not deal with any matter which is under adjudication by a court of law having jurisdiction in any part of India."

**12.** Rule 24 shall be omitted.

**13.** In Rule 25, for the words, figures and brackets "as required by sub-section (3) of Section 15 of the Act", the words and figures "as required by the proviso to Article 179 of the Constitution" shall be substituted.

**14.** For Rule 27, the following rule shall be substituted :—

"27. The presence of at least ten members shall be necessary to constitute a meeting of the Assembly for the exercise of its powers".

**15.** In sub-rule (2) of Rule 28—

(i) For Item (iv) the following shall be substituted :—

"(iv) reflect upon His Highness the Maharaja, the members of the Ruling Family, the President, the Governor or a Rajpramukh of any State, the Ruler of any Foreign State, a Judge of the Supreme Court of India or a Judge of a High Court in India in the discharge of his duties or any court of law in the exercise of its judicial functions."

(ii) in item (viii) the words "or His Highness the Maharaja" shall be omitted.

**16.** Rule 32 shall be omitted.

**17.** For Rule 33, the following rule shall be substituted:—

"33. (1) Any member other than a Minister desiring to move for leave to introduce a Bill shall give notice of his intention and shall together with the notice send a copy of the Bill and a full statement of objects and reasons.

(2) If the Bill is a Bill which under the Constitution cannot be introduced without previous recommendation, the member shall annex to the notice a copy of such recommendation and the notice shall not be valid until this requirement is complied with.

(3) The period of notice of a motion for leave to introduce a Bill under this rule shall be twelve days unless the Speaker allows the motion to be made at shorter notice.

(4) On the day on which the motion is set down in the list of business, the member giving notice may move for leave to introduce the Bill.

(5) If the motion for leave to introduce the Bill is carried, the Bill shall be introduced and the Standing Orders of the Assembly regulating the subsequent procedure in regard to the passing of Bills shall apply."

**18.** In Rule 36, for the words "the Government" the words "His Highness the Maharaja" shall be substituted.

**19.** For Rule 41, the following rule shall be substituted:—

"41. A member who wishes to move a resolution shall give at least twelve clear days' notice, before the commencement of the session at which he desires to move the resolution and shall together with the notice submit a copy of the resolution he wishes to move:

Provided that no member shall, unless he has obtained the special permission of the Speaker, be permitted to send in notice for one session of more than two resolutions:

Provided further that the Speaker, with the consent of the Minister to whose department the resolution

relates, may allow it to be entered on the list of business with shorter notice."

**20.** Rule 42 shall be omitted.

**21.** In the proviso to Rule 43—

(i) for item (*a*) the following shall be substituted :—

"(*a*) it shall be in the form of a declaration of opinion by the Assembly ;"

(ii) after item (*c*) the following item shall be added :—

"(*d*) it shall not relate to any matter which is under adjudication by a court of law having jurisdiction in any part of India."

**22.** Rule 48 shall be omitted.

**23.** For Rule 49, the following rule shall be substituted :—

"49. A copy of every resolution which has been passed by the Assembly shall be forwarded to His Highness the Maharaja."

**24.** Sub-rules (2) and (3) of Rule 50 shall be omitted.

**25.** For Rule 51, the following rule shall be substituted :—

"51. (1) The annual financial statement for any financial year (hereinafter referred to as the Budget) shall be presented to the Assembly on such date as His Highness the Maharaja may appoint.

(2) No discussion on the Budget shall take place on the day on which it is presented."

**26.** In Rule 54, for the words "the Government" whenever they occur the words "His Highness the Maharaja" shall be substituted.

**27.** In Rule 58, for the words "the Government" wherever they occur, they words "His Highness the Maharaja" shall be substituted.

**28.** In Rule 59—

(1) for sub-rule (1), the following sub-rule shall be substituted :—

"(i) No demand for a grant shall be made except on the recommendation of His Highness the Maharaja."

(ii) for sub-rule (2), the following sub-rule shall be substituted :—

"(2) Motions may be made at this stage to reduce any grant or to omit or reduce any item in any grant but not to increase or alter the destination of a grant."

**29.** Sub-rule (2) of Rule 60 shall be omitted.

**30.** For Rule 62, the following rule shall be substituted :—

"62. (1) As soon as may be after the grants under Article 203 of the Constitution have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State of all moneys required to meet—

(*a*) the grants so made by the Assembly ; and

(*b*) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the statement previously laid before the Assembly.

(2) The provisions of these Rules and Standing Orders relating to Bills shall apply to the Appropriation Bills introduced under this rule :

Provided that no amendment shall be proposed to any such Bill which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of the State :

Provided further that the Speaker may suspend the operation of any of these rules for the purpose of timely completion of the financial business.

(3) The decision of the person presiding as to whether an amendment is inadmissible under this rule shall be final."

**31.** For Rule 63, the following rule shall be substituted :—

"63 (1) His Highness the Maharaja shall—

(*a*) if the amount authorised by any law made in accordance with the provisions of Article 204 of the Constitution to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(*b*) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year,

cause to be laid before the Assembly another statement showing the estimated amount of that expenditure or cause to be presented to the Assembly a demand for such excess, as the case may be.

(2) The provisions of Rules 52, 58, 59, 60 and 62 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure or grant."

**32.** For Rule 64, the following rule shall be substituted :—

"64. (1) Notwithstanding anything contained in the preceding rules, on any day or days subsequent to the presentation of the Budget which may be appointed by His Highness the Maharaja for this purpose, motions may be made for grants in advance in respect of the estimated expenditure for a part of any financial year.

(2) Such demands shall be dealt with by the Assembly in the same way as if they were demands for

grants, and the provisions of Rules 52, 58, 59, 60 and 62 shall *mutatis mutandis* apply.

64-A (1) At any time during a financial year, a motion may be made for a vote of credit or an exceptional grant contemplated in items (*b*) and (*c*) of clause (1) of Article 206 of the Constitution.

(2) The provisions of Rule 62 shall apply to any such motion."

**33.** Rule 72 shall be omitted.

**34.** Rule 72-A shall be omitted.

**35.** Rule 73-A shall be omitted.

**36.** In Rule 75—

(i) in sub-rule (1), for the words "that the money voted by the Assembly has been spent within the scope of the demand granted by the Assembly", the words "that the provisions of an Appropriation Act have been followed" shall be substituted.

(ii) Item (i) of sub-rule (2) shall be omitted.

**Amendments to Standing Orders.**

**1.** For Standing Order 3, the following Standing Order shall be substituted :—

"3. (1) Subject to the provisions of clause (1) of Article 174 of the Constitution, whenever it appears to His Highness the Maharaja that the Assembly should be summoned—

(i) he shall cause a notification to be published in the Gazette fixing the time and place for a session of the Assembly ; and

(ii) the Secretary shall thereupon send to each member a summons to attend the session.

(2) His Highness the Maharaja may, either before the session commences or during the course of the session, extend the duration of the session by issuing a notification to that effect in the Gazette and in such a case no intimation of the extension need be issued to the members."

2. In clause (1) of Standing Order 4, for the words "the Government" the words "His Highness the Maharaja" shall be substituted.

3. In clause (1) of Standing Order 6, for the words "the Government" the words "His Highness the Maharaja" shall be substituted.

4. In clause (1) of Standing Order 18, for the words "thirteen members" the words "ten members" shall be substituted.

5. After clause (1) of Standing Order 39, the following clause shall be inserted :—

"(1-a) If any member desires to move an amendment which under the Constitution cannot be moved without previous recommendation, he shall annex to the notice of the proposed amendment a copy of such recommendation; and the notice shall not be valid until this requirement is complied with."

6. For Standing Order 45, the following Standing Order shall be substituted :—

"45. When a Bill is passed by the Assembly, a copy thereof signed by the Speaker shall be forwarded to His Highness the Maharaja for assent."

7. After Standing Order 45, the following Standing Order shall be added :—

"45-A. When a Bill which has been passed by the Assembly is returned by the President or by His Highness the Maharaja for reconsideration by the Assembly, the point or points referred for reconsideration shall be put before the Assembly by the Speaker and shall be discussed and voted upon in the same manner as amendments to a Bill or in such other manner as the Speaker may consider most convenient for their consideration by the Assembly."

8. Item (*b*) of Standing Order 50 shall be omitted.

9. In clause (1) of Standing Order 63 (1) for the words "15 clear days" the words "12 clear days" shall be substituted.

**10.** In clause (2) of Standing Order 68, for the words "the next day" the words "the next open day" shall be substituted.

**11.** In item 5 of the Schedule to the Standing Orders for the words "twelfth day" the words "seventh day" shall be substituted.

BANGALORE,

*Dated 23rd February 1950.*

By Order of the Hon'ble Speaker,
G. S. VENKATARAMANA IYER,
*Secretary,*
*Mysore Legislature.*

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## PART IV

### Section 2-B

### NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS.

### NOTIFICATIONS.

No. H. 13692—Pol. 193-49-10, dated Bangalore, 6th March 1950.

(HOME DEPARTMENT).

The Rajpramukh of Mysore His Highness the Maharaja is pleased to extend the provisions of Section 56 of the Mysore Police Act (Act V of 1908) as amended from time to time to Chakavelu Village and its hamlets in Bagepalli Taluk, Kolar District, with effect from 15th March 1950.

By Order of the Rajpramukh,
His Highness the Maharaja,

K. SRINIVASAN,
*Chief Secretary.*

No. S.R. 3892-93—E.D. 35-48-15, dated Bangalore, the 2nd March 1950.

In exercise of the powers conferred by Sections 16, 17 and 18 of the Matches (Excise Duty) Act, 1934, (Act III of 1934), His Highness the Maharaja Rajpramukh of Mysore is pleased to order the following further amendments to the Mysore Matches (Excise Duty) Rules, 1934 and to the Mysore Matches (Excise Duty) Supplementary Rules, 1939, namely :—

A. In the Mysore Matches (Excise Duty) Rules, 1934 :—

1. For sub-rule (1) of Rule 38 of the said Rules, the following sub-rule shall be substituted, namely ;

"(1) All matches issued for home consumption from a manufactory shall be contained in boxes or booklets and the number of matches contained in each such box or booklet shall be either *forty* or *sixty* ".

2. For Rule 40 of the said Rules, the following Rule be substituted namely :—

"40. (1) The banderols to be affixed to boxes or booklets of matches shall be issued from Government Treasuries and they shall be of the class appropriate to the class of boxes or booklets of matches to which they are to be affixed.

(2) A licensee claiming assessment of the matches produced at his factory at the preferential rates of duties provided in the schedule of rates of duty in Section 4 of the Matches (Excise Duty) Act, 1934, (III of 1934), for factories whose daily output does not exceed hundred gross of boxes per day, or for factories whose output does not exceed five lakhs gross of boxes per year, but exceeds hundred gross of boxes per day, shall at the time of purchasing the banderols present to the Treasury Officer, a certificate from the Deputy Commissioner in whose jurisdiction the factory is situated, stating the output of the factory and that the licensee is entitled to the preferential rates specified in the certificate.

(3) In the case of a factory whose daily output does not exceed hundred gross of boxes per day, a certificate granted under sub-rule (2) shall not be valid for more than three months from the date of issue, and may be cancelled at any earlier time, if it appears to the Deputy Commissioner that the daily output of the factory to which it relates, exceeds such limit.

(4) In the case of a factory whose output does not exceed five lakhs gross of boxes per year but exceeds hundred gross boxes per day, the certificate shall be valid only up to the end of the year for which it has been issued, and shall be cancelled at any earlier time, during such year, if up to such time, the actual output out of the factory from the commencement of the year has exceeded five lakhs gross of boxes.

(5) The Treasury Officer shall on presentation of a certificate prescribed in sub-rule (2) issue to the licensee, banderols of the distinctive colour provided for the particular scale of factory output specified in the certificate ".

III. For Rule 41 of the said Rules, the following rule shall be substituted, namely :—

" 41. Every box or booklet of matches, and where such boxes or booklets are issued in packets, each box or booklet of a packet shall bear a banderol of the appropriate class according to the number of matches in each box or booklet ".

IV. After Rule 44 (A) of the said Rules, the following rule shall be inserted namely :—

44 B. (1) Every owner of a manufactory shall also print on the manufactory's label covering a box or booklet, the retail price of the box or booklet of matches on which such label is affixed.

(2) Any owner of a manufactory who contravenes this rule shall be punishable with imprisonment which may extend to one month or with fine which may extend to five hundred rupees or with both such imprisonment and such fine.

5. Chapter VII of the said Rules shall be omitted.

B. In the Mysore Matches (Excise Duty) Supplementary Rules, 1939 :—

1. In Rule 15, of the said Rules, the figures " 1 ", " 2 ", " 8 ", " 12 ", " 20 " and " 80 " wherever they occur shall be omitted.

2. In Rule 22 of the said Rules, for the second para the following para shall be substituted namely :—

" Cases or packets containing boxes or booklets of matches shall be distinguished by distinct marks to

indicate whether they contain 40's, 60's or other kinds".

3. In forms ME3 and ME4 of the schedule to the said Rules, for the words and figures "Class" 1 2 3 the words and figures "Class 40's, 60's, other kinds" shall be substituted.

By Order of His Highness the Maharaja,

SYED ABDUL ALEEM,
*Secretary to Government,*
*Revenue Department.*

No. T. 6820—R.T. 1-49-28, dated Bangalore, the 6th March 1950.

In exercise of the powers conferred by Section 83 of the Mysore Motor Vehicles and Road Traffic Act, 1944, Government of Mysore are pleased to exempt from payment of taxes leviable under the said Act, the motor vehicle No. MY-696-X belonging to the Indian Coffee Board, Propaganda Department, Bangalore.

By Order of His Highness the Maharaja,

A. C. NIRVANI GOWDA,
*Secretary to Government,*
*Local Self-Government Department.*

No. C. 1337—Co. 1-48-5, dated Bangalore, the 1st March 1950.

In pursuance of Clause 5 of the Cement Rationing and Licensing Order, 1948, His Highness the Maharaja the Rajpramukh of Mysore, is pleased to direct that in Notification No. S.D. 1568—Co. 1-48-2, dated 28th August 1948, after the words "Cement Marketing Company of India" occurring in paragraph (5) of the said Notification, the words "and the Cement Distributors Limited, Dalmiapuram" shall be inserted.

By Order of His Highness the Maharaja,

No. S.D. 7204 –R. 24-49-355, dated Bangalore, the st March 1950.

In exercise of the powers conferred by sub-rule (2) of Rule 81 of the Defence of India Rules as applied to Mysore and continued by the Supplies, Services and Miscellaneous Provisions (Temporary Powers) Act, 1947, (XX of 1947), the Rajpramukh of Mysore His Highness the Maharaja is pleased to direct that the following further amendment shall be made in the Mysore Food (Restriction of Service of Meals by Catering Establishments and others) Order of 1949, and to direct further with reference to sub-rule (1) of Rule 119 of the said rules that notice of this amendment shall be given by publication in the *Mysore Gazette* and by the issue of a Press Note :—

For clause 6 of the said Order, the following clause shall be substituted, namely :—

"6. (i) No person shall in connection with any marriage or funeral invite for taking cooked or prepared food or serve or provide or supply cooked or prepared food using rationed articles, for more than fifty persons other than the persons shown on the Ration Cards of the persons performing the said marriage or funeral.

*Explanation.*—For the purposes of this sub-clause, in the case of areas where statutory rationing is not in force, the corresponding entries in the "H. S. 1" Form or Identity Cards shall be deemed to be the entries in the Ration Cards.

(ii) No person shall in connection with any marriage serve, or provide or supply more than two meals for each person invited for such marriage, and no person shall in connection with any funeral serve, provide or supply more than one meal for each person invited for such funeral.

(iii) Save as otherwise provided in this Order, no owner or other person in charge of a Catering Establishment shall cater for any gathering or party of more than twenty-five persons at a time, and no person shall serve, provide or supply any food except liquid refreshments, nuts, fruits (fresh or dried), potato chips and preparation of gram or gram products, sweet potatoes, bananas, tapioca and groundnut cake flour with jaggery, salt or ghee, oil or vegetable oil products, in any public or private entertainment of more than twenty-five persons at a time, except with the previous permission in writing of the Director of Food Supplies in Mysore or of any other officer authorised by him in this behalf."

By Order of His Highness the Maharaja,

No. C. 1339—Co. 23-49-33, Bangalore, dated 2nd March 1950.

In exercise of the powers conferred by Section 3 and clause (*a*) of sub-section 1 of Section 4 of the Mysore Drugs (Control) (Emergency) Act 1949 (Act No. LXVIII of 1949), His Highness the Maharaja, the Rajpramukh of Mysore is pleased to direct that the following further amendments shall be made in the Schedule to notification No. C. 3130—Co., dated the 3rd October 1949 published in Part IV, Section 2-B of the *Mysore Gazette Extraordinary* dated the 3rd October 1949, namely:—

(*a*) In respect of the drugs in the said schedule specified in column 1 hereunder which are manufactured by J. L. Morison, Son & Jones (India) Ltd., and the Fair Deal Corporation Ltd., Bombay, for the prices specified in column 2 of the said schedule, the prices specified in column 2 hereunder shall be substituted :—

**(1) J. L. Morison, Son & Jones (India) Ltd.,**

*Sulphaguanidine Tablets.*

| | | Rs. | a. | p. |
|---|---|---|---|---|
| 25's | ... | 1 | 14 | 0 |
| 100's | ... | 6 | 6 | 0 |
| 1000's | ... | 50 | 0 | 0 |
| *Tab-Vita B Group.* | | | | |
| 100's | ... | 7 | 8 | 0 |
| *Tab-Vita Ribaflavin.* | | | | |
| 1 mg. 25's | ... | 0 | 10 | 0 |

**(2) The Fair Deal Corporation Ltd., Bombay.**

*Vitamin preparations.*

| | | | | |
|---|---|---|---|---|
| Penicillin—Disposable Syringe set with 1 cc. Cartridges procaine ... | 8 | 0 | 0 | per set |

(*b*) Under the heading "J. L. Morison, Son & Jones (India) Ltd." appearing in the said schedule,

(i) Before the entry "Sulphaguanidine," the sub-heading "Nicholas Ethical Products" shall be inserted.

(ii) After the entry "Vitamins," the sub-heading "Mead Johnson Ltd., U.S.A." shall be inserted.

By Order of His Highness the Maharaja,

A. S. KHALEEL,

*Secretary to Government,*

*Food and Agriculture Departments.*

No. C. 1352—Co. 22-49-22, dated, Bangalore the 4th March 1950.

In exercise of the powers conferred by sub-rule (2) of Rule 81 of the Defence of India Rules as applied to Mysore and continued by the Supplies, Services and Miscellaneous Provisions (Temporary Powers) Act, 1947 (Act XX of 1947), His Highness the Maharaja, the Rajpramukh of Mysore is pleased to publish the following notification issued by the Textile Commissioner under the Mysore Cotton Control Order, 1949:—

By Order,

A. S. KHALEEL,

*Secretary to Government,*
*Food and Agriculture Departments.*

**No. C. 1353—Co. 22-49-23, dated 4th March 1950.**

In exercise of the powers conferred on me by paragraph 17 of the Mysore Cotton Control Order, 1949, I hereby direct as follows:—

1. For the purpose of this order, each of the following areas shall constitute a zone, namely,—

(*a*) the Province of Bombay;
(*b*) the United State of Saurashtra (including Junagadh);
(*c*) the Province of Cutch;
(*d*) the United State of Madhya Bharat;
(*e*) the Province of Bhopal;
(*f*) the United State of Rajasthan;
(*g*) the Province of Ajmer-Merwara;
(*h*) the Province of East Punjab;
(*i*) the Patiala and East Punjab States Union;
(*j*) the Central Province and Berar;
(*k*) the Province of Bilaspur;
(*l*) the Hyderabad State;
(*m*) the Mysore State;
(*n*) the Province of Madras;
(*o*) the United Provinces.

*Explanation.*—Each of the Provinces specified above shall be deemed to include the States which have merged with it or administered as part of it.

2. Except in accordance with the permission in writing of the Textile Commissioner, the Director (Cotton) or an Assistant Director (Cotton) in the Office of the Textile Commissioner or of any other officer authorised in

this behalf by the Textile Commissioner, no person shall transport or cause to be transported cotton by rail, road or water from any place within any of the said zones to any place in India outside that zone:

Provided that nothing in this paragraph shall apply to the transport of—

(i) Cotton waste (soft waste).

(ii) Parcels containing cotton samples weighing not more than 20 lbs.

(iii) Parcels containing cotton despatched by the President, East India Cotton Association Ltd., Bombay.

T. P. BARAT,

*Textile Commissioner,*
*Bombay.*

No. M. 13951—P.H. 115-49-5, dated Bangalore, the 27th February 1950.

Under Section 20 of the Mysore Prevention of Adulteration Act IX of 1921 as amended from time to time, the Government of Mysore are pleased to make the rules issued with Government Notification No. G. 2463—Sany. 61-30-3, dated 22nd September 1931, as amended in Government Notification No. G. 798—P.H. 136-39-3, dated 29th July 1940 (annexed hereto) applicable to Davanagere Municipality.

By Order of His Highness the Maharaja,

K. M. NARASIMHAIYA,
*Secretary to Government,*
*Education Department.*

## RULES UNDER THE MYSORE PREVENTION OF ADULTERATION ACT.

1. In these rules, "Act" means the Mysore Prevention of Adulteration Act, IX of 1921.

"Section" means section of the above Act.

*Section 3.*—

2. The officer to whom the local executive officer may delegate his powers shall be of the rank of a Health Officer or shall hold the Diploma of Public Health. No

legal proceedings under the Act shall be instituted without the permission in writing of the President or the Commissioner, as the case may be.

*Section 20 (b).*—

3. The area within which the local executive officer of a Municipal Council shall exercise powers shall be the Municipal limits of the place.

*Section 20 (c).*—

4. *Cleanliness of Vessels.*—All vessels, receptacles or utensils used for manufacturing or preparing food or containing any food intended for sale shall be cleansed with clean boiling water before and after use and shall be kept in a constant state of cleanliness. In case of food likely to be acted upon by the metal of the vessels, receptacles or utensils in which the food is manufactured, prepared or contained for purposes of sale, precautions shall be taken to prevent such metallic contamination.

*Section 20 (d).*—

5. *How notice of Admixture, Addition or Deficiency shall be given.*—If the vendor of any article intended for food, knows that it is admixed with any foreign substance whatsoever or that any component part has been abstracted therefrom, he shall give due notice of such admixture or abstraction by means of distinct and clear labels in Kannada or in any other language likely to be read and understood by the people, affixed conspicuously on each package or receptacle containing the article. Unless the vendor of any food containing an admixture, addition or deficiency, knows of his own knowledge, that the purchaser is able to read and understand the label, he shall give the purchaser the information contained in the label by word of mouth at the time of purchase.

*Section 20 (e).*—

6. The standards of purity prescribed for milk, cream, butter and ghee are as follows :—

*Milk.*—

(1) *Cow's Milk.*—Where a sample of cow's milk (not being sold as skimmed or separated milk), contains less than 3 per cent of milk-fat, it shall be presumed for

the purposes of this Act, until the contrary be proved, that the milk is not genuine, by reason of the abstraction therefrom of milk-fat or the addition thereto of water.

(2) When a sample of cow's milk or any skimmed or separated cow's milk contains less than 8·5 per cent of milk solids other than milk-fat, it shall be presumed for the purposes of this Act until the contrary be proved, that the milk is not genuine by reason of the addition thereto of water.

(3) When a sample of cow's milk, whether sold as cow's milk or as skimmed or separated cow's milk, contains less than 0·5 per cent of nitrogen, it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine by reason of the addition thereto of water.

(4) *Buffalo's Milk.*—Where a sample of buffalo's milk (not being sold as skimmed or separated milk), contains less than 4·5 per cent of milk-fat, it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine by reason of the abstraction therefrom of milk-fat or the addition thereto of water.

(5) Where a sample of Buffalo's milk, whether sold as buffalo's milk, or as skimmed or separated buffalo's milk contains less than 9 per cent of milk-solids other than milk-fat, it shall be presumed for the purposes of this Act, until the contrary be proved, that the sample is not genuine by reason of the addition thereto of water.

(6) Where a sample of buffalo's milk, whether sold as buffalo's milk or as skimmed or separated buffalo's milk, contains less than 0·53 per cent of nitrogen, it shall be presumed for the purposes of this Act, until the contrary be proved, that the sample is not genuine by reason of the addition thereto of water.

*N.B.*—The minimum limits for nitrogen prescribed above under (3) and (6) are intended to be used in those cases in which a sample of milk, when it is analysed, is so far decomposed that an estimation of the proportion of milk-solids, other than milk-fat in the sample before decomposition will be unreliable, the proportion of nitrogen not being appreciably affected by decomposition.

(7) *Unspecified Milk.*—Where a sample of milk, separated milk or skimmed milk, is sold or offered for sale or hawked about, without any indication as to whether it is derived from the cow or the buffalo and by comparison

with the minimum limits given for the cow's milk in the above, it appears to be adulterated, it shall be presumed for the purposes of this Act, until the contrary be proved, that the sample is not genuine for the reason given in the above rule or rules which are applicable.

(8) *Maximum Limit for Dirt in Milk.*—Where a sample of milk separated or skimmed milk deposits on standing for a period of 24 hours or less, an amount of visible sediment exceeding five parts per 100,000 (both milk and sediment being measured by volume), it shall be presumed for the purposes of this act, until the contrary be proved, that the sample is not genuine by reason of its containing an excessive amount of dirt.

(9) *Cream.*—Where a sample or cream contains less than 20 per cent of milk-fat, it shall be presumed for the purposes of this Act, until the contrary be proved, that the sample is not genuine.

(10) *Butter.*—Where the proportion of water in a sample of butter exceeds 20 per cent, it shall be presumed for the purposes of this Act, until the contrary be proved, that the butter is not genuine by reason of the excessive amount of water therein.

(11) *Ghee.*—Where the proportion of water in a sample of ghee exceeds one per cent, it shall be presumed for the purposes of this Act, until the contrary be proved, that the ghee is not genuine by reason of the excessive amount of water therein.

*Section 20 (f)*—

7. (1) No person shall add water or any dried or condensed milk or any fluid reconstituted therefrom or any skimmed milk or separated milk to milk intended for sale, and no person shall, by himself or by any servant or agent, sell or offer for sale or hawk about, any milk to which any such addition has been made.

(2) No person shall abstract any ingredient from milk, without giving due notice of the same, in an unambiguous manner, of the fact of such abstraction therefrom, as prescribed in rules under Section 20 (*d*).

(3) No person either by himself or any servant or agent, shall sell or offer for sale or hawk, as milk, any liquid in the making of which dried milk or condensed milk has been used or to which water or other diluent or adulterant has been added or from which any ingredient

has been abstracted, without due notice of the same to the purchaser as prescribed in rule under Section 20 (*d*).

*Section 20 (g).*—

8. Any receptacle containing dried, condensed, skimmed or separated milk shall be labelled with an adhesive label which shall contain the information and be of the size indicated below. The information shall be in black type printed or written in the centre of the label, which shall be of white colour. Nothing else shall be printed or written on the label except the name of the article. The label shall be clearly visible to the purchaser and shall measure at least 2″×4″ where only Kannada is used or at least 4″×4″ where more than one language is employed.

*Section 20 (h).*—

9. (1) Any person taking a sample of milk for the purpose of this Act may add a preservative for the purpose of retaining the sample in a condition convenient for analytical purposes.

(2) The preservative used shall be the liquid commonly known as "formalin" which is a liquid containing about 40 per cent of formaldehyde in aqueous solution.

(3) The amount of preservative added shall be approximately in proportion of one drop of formalin for every 2 ozs. of the sample of the milk.

(4) Each sample of milk to which formalin has been added by the person taking the sample shall bear a notification on the label to the effect that it has been "artificially preserved".

(5) For the purposes of this rule, milk includes skimmed and separated milk.

10. *Penalty for Breach of Rules.*—Every manufacturer or dealer or vendor who—(*a*) disobeys, fails to comply with or acts in contravention of the provisions made under Rule 4 herein, in respect of cleanliness of vessels, receptacles or utensils used for manufacturing, preparing or containing any food intended for sale, or (*b*) neglects to affix labels to notify in the manner prescribed, the fact of the admixture of foreign ingredients in the case of adulterated articles of food or abstraction of any

component part therefrom of any article of food, or (*c*) fails to give the purchaser in cases, mentioned in Rule 5, information contained in such labels by word of mouth at the time of purchase, or (*d*) manufactures, deals in or sell milk, cream, butter or ghee below the standard prescribed in Rule 6 above shall, on conviction before a Magistrate, be punished with a fine not exceeding Rs. 50 and with a fine which may extend to Rs. 50 for every subsequent offence.

**Amended Rules.**

(6) The standards of purity prescribed for milk, cream, curds, butter and ghee, and tea and coffee are as follows :—

*Milk* :—

(1) *Cow's Milk.*—Where a sample of cow's milk (not being sold or offered for sale as skimmed or separated milk) contains less than three per cent of milk-fat it shall be presumed for the purposes of this Act, until the contrary be proved that the milk is not genuine by reason of the abstraction therefrom of milk-fat or the addition thereto of water.

(2) Where a sample of cow's milk, whether sold or offered for sale as cow's milk or as skimmed or separated cow's milk, contains less than 8·5 per cent of milk-solids other than milk-fat, it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine by reason of the addition thereto of water.

(3) Where a sample of cow's milk, whether sold or offered for sale as cow's milk or as skimmed or separated cow's milk contains less than 0·5 per cent of nitrogen, it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine by reason of the addition thereto of water.

(4) Where a sample of cow's milk, whether sold or offered for sale as cow's milk or as skimmed or separated cow's milk, contains less than 0·5 or more than 0·75 per cent of ash, it shall be presumed for the purposes of this Act until the contrary be proved that the sample is not genuine by reason of the addition thereto of water, or the addition of extraneous solids, as the case may be.

(5) *Buffalo's Milk.*—Where a sample of buffalo's milk (not being sold or offered for sale as skimmed or

separated milk) contains less than 4·0 per cent of milk-fat, it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine by reason of the abstraction therefrom of milk-fat or the addition thereto of water.

(6) Where a sample of buffalo's milk, whether sold or offered for sale as buffalo's milk, or as skimmed or separated buffalo's milk, contains less than 9 per cent of milk-solids other than milk-fat, it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine by reason of the addition thereto of water.

(7) Where a sample of buffalo's milk, whether sold or offered for sale as buffalo's milk, or as skimmed or separated buffalo's milk contains less than 0·53 per cent of nitrogen it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine by reason of the addition thereto of water.

*N.B.*—The minimum limits for nitrogen prescribed above under (3) and (7) are intended to be used in those cases in which a sample of milk when it is analysed is so far decomposed that an estimation of the proportion of milk-solids other than milk-fat in the sample before decomposition will be unreliable, the proportion of nitrogen not being appreciably affected by decomposition.

(8) Where a sample of buffalo's milk, whether sold or offered for sale as buffalo's milk, or as skimmed or separated buffalo's milk, contains less than 0·60 or more than 1·00 per cent of ash, it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine by reason of the addition thereto of water, or the addition of extraneous solids, as the case may be.

(9) *Unspecified Milk.*—Where a sample of milk, separated milk or skimmed milk, is sold or offered for sale or hawked about with any indication as to whether it is derived from the cow or the buffalo and by comparison with the minimum limits prescribed above under (1), (2) and (3) for cow's milk, it appears to be adulterated, it shall be presumed for the purposes of this Act, until the contrary be proved, that the sample is not genuine for the reason given in the above rule or rules which are applicable.

(10) *Maximum Limit for Dirt in Milk.*—Where a sample of milk, separated milk, or skimmed milk deposits on standing for period of 24 hours or less, an amount of

visible sediment exceeding five parts per 100,000 (both milk and sediment being measured by volume), it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine by reason of its containing in excessive amount of dirt.

(11) *Cream.*—Where a sample of cream contains less than 20 per cent of milk-fat, it shall be presumed for the purposes of this Act, until the contrary be proved, that the sample is not genuine.

*Curd.*—Curd is the product obtained by lactic and fermentation of milk.

(12) *Curd from Cow's Milk.*—Where a sample of curd from cow's milk, whether sold or offered for sale as curd from cow's milk contains less than 8·9 per cent of total solids and more than 2·82 per cent of acidity in terms of lactic acid, it shall be presumed for the purposes of this Act, until the contrary be proved, that the curd is not genuine by reason of the addition thereto of water.

(13) *Curd from Skimmed (Cow's) Milk.*—Where a sample of curd from skimmed (cow's) milk, whether sold or offered for sale as curd from skimmed (cow's) milk, contains less than 6·1 per cent of total solids and more than 3·28 per cent of acidity in terms of lactic acid, it shall be presumed for the purposes of this Act, until the contrary be proved, that the curd is not genuine by reason of the addition thereto of water.

(14) *Curd from Buffalo's Milk.*—Where a sample of curd from buffalo's milk, whether sold or offered for sale as curd from buffalo's milk, contains less than 9·8 per cent of total solids and more than 3·45 per cent of acidity in terms of lactic acid, it shall be presumed for the purposes of this Act, until the contrary be proved, that the curd is not genuine by reason of the addition thereto of water.

(15) *Curd from Skimmed (Buffalo's) Milk.*—Where a sample of curd from skimmed (buffalo's) milk, whether sold or offered for sale as curd from skimmed (buffalo's) milk, contains less than 7·3 per cent of total solids and more than 3·55 per cent of acidity in terms of lactic acid, it shall be presumed for the purposes of this act, until the contrary be proved, that the curd is not genuine by reason of the addition thereto of water.

(16) *Curd from Skimmed (Unspecified) Milk.*—Where a sample of curd from skimmed milk is sold or offered for sale or hawked about, without any indication

as to whether it is made of cow's or buffalo's milk and by comparison with the limits prescribed above under (13) for curd from skimmed cow's milk, it appears to be adulterated, it shall be presumed for the purposes of this Act, until the contrary be proved, that the sample is not genuine.

(17) *Butter.*—(*a*) Where the proportion of water in a sample of butter made from cow's or buffalo's milk or cream exceeds 20 per cent, it shall be presumed for the purposes of this Act, until the contrary be proved, that the butter is not genuine by reason of the excessive amount of water therein.

*Note.*—Rules 18 and 19 which are intended to be used in the case of ghee samples shall also apply in the case of butter which may be clarified into ghee for this purpose.

(*b*) No preservatives except salt shall be used.

*Ghee.*—

(18) Where the proportion of water in a sample of ghee made from cow's or buffalo's butter exceeds 1 per cent, it shall be presumed for the purposes of this Act, until the contrary be proved, that the ghee is not genuine by reason of the excessive amount of water therein.

(19) Where a sample of ghee, whether sold or offered for sale as cow's ghee or buffalo's ghee or mixed ghee, does not satisfy the following values, it shall be presumed for the purposes of the Act, until the contrary be proved, that the sample is not genuine.

| Kind | Refractive Index at 40°C | Reichert Meissl value | Polenske value | Free Fatty Acids as oleic, per cent | Saponification value | Iodine value |
|---|---|---|---|---|---|---|
| | | Not less than | Not less than | Not more than | Not less than | Not more than |
| Cow's Ghee ... | 41·0—44·0 | 21·0 | 1·5 | 0·20 | 225 | 41·0 |
| Buffalo's Ghee | 41·0—44·0 | 27·0 | 1·5 | 0·30 | 225 | 41·0 |
| Mixed Ghee... | 41·0—44·0 | 25·0 | 1·5 | 0·28 | 225 | 41·0 |

(*a*) No person shall add to ghee or butter intended for sale any substance—

(i) prepared in imitation of or as a substitute for ghee or butter;

or

(ii) consisting or containing any oil or fat which does not conform to the definition of ghee in the Act;

(b) No person shall either by himself or by any servant or agent sell or offer or expose for sale any ghee or butter to which any such addition has been made.

*Tea.*—

(20) (a) Tea shall be derived exclusively from the leaves and buds of plants of the Camellia genus and Thea species.

(b) Tea shall contain —

(i) a proportion of extractive matter in boiling water which is not less than 40 per cent;

(ii) a proportion of total ash of not less than 4 per cent and not more than 8 per cent;

(iii) a proportion of ash insoluble in boiling water which is not more than 3 0 per cent; and

(iv) the total alkalinity of the ash as $K_2O$ should not be less than 1·7 or more than 2 0.

*N.B.*—For the purpose of this rule, the ash of tea shall be determined on dry tea, that is, tea dried to constant weight at 100°C.

(c) Where a sample of tea does not comply with all the standards specified in sub-rules (a) and (b), it shall be presumed for the purposes of this act, until the contrary be proved, that the tea is not genuine.

*Coffee.*—

(21) (a) "Coffee" means the seed of cultivated varieties of Coffee arabica, Coffea liberica and Coffea robusta.

"Green, raw or unroasted Coffee" is coffee freed from all but a small portion of its spermoderm, and conforms in variety and in place of production to the name it bears.

"Roasted Coffee" means properly cleaned green coffee which by the action of heat (roasting) has become brown and has developed its characteristic aroma and shall not contain any admixture of other substances than coffee, save as under (d).

(b) Coffee shall contain—

(i) a proportion of extractive matter in boiling water which is not less than 30 per cent,

(ii) a proportion of total ash of not less than 4 per cent and not more than 5 per cent;

(iii) a proportion of ash insoluble in boiling water which is not more than 1·4 per cent; and

(iv) the total alkalinity of the ash as $K_2O$ should not be less than 1·8 or more than 2·2.

*N.B.*—For the purpose of this rule, the ash of coffee powder shall be determined on dry coffee powder, that is, coffee-powder dried to constant weight at 100°C.

(*c*) Where a sample of coffee does not comply with all the standards specified in sub-rules (*a*) and (*b*), it shall be presumed for the purposes of this Act, until the contrary be proved, that the coffee is not genuine.

(*d*) The only permissible adulterant to coffee is chicory, which may be added to the coffee in a proportion not exceeding 50 per cent. The fact of such an addition and the exact proportion of the adulterant shall be clearly indicated on the label of the container or packet containing the mixture, in a conspicuous place and in distinct legible letters.

When ground coffee is sold or exposed for sale in loose form, *i.e.*, other than in specifically prepared packets or containers, the receptacles containing the coffee, or on which it is exposed or kept for sale, shall be labelled with labels indicating the nature and extent of the adulterant present (if any) in letters less than one-half of an inch in size. Absence of such a label will be taken to imply that the coffee so kept or exposed for sale is meant to be sold as pure coffee.

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No. 6174—Cts. 36-49-6, Bangalore, dated 2nd March 1950.

In exercise of the powers conferred under Section 42 of the Mysore Court Fees Act, 1900 (Act III of 1900), His Highness the Maharaja is pleased to direct that the payment of court fees for the stamping, in the Mysore State, of Succession Certificates issued in the States specified in Part A of the First Schedule to the Constitution of India, be remitted.

By Order of the Rajpramukh,
His Highness the Maharaja of Mysore,

B. S. PUTTASWAMY,
*Secretary to Government,*
*Law Department.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

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# The Mysore Gazette

(PUBLISHED BY AUTHORITY)

EXTRAORDINARY

BANGALORE, TUESDAY, MARCH 14, 1950.


## PART IV

### Section 2-A.

### BILLS, SELECT COMMITTEE REPORTS, IF ANY, THEREON AND ACTS OF MYSORE.

### NOTIFICATION.

Order No. L.D. 1860—Legis. 40-49-1, Bangalore, dated 14th March, 1950.

Ordered that the accompanying Mysore Village Panchayet (Amendment) Ordinance, 1950, which was promulgated by the Rajpramukh of Mysore, on the 14th day of March 1950, be published as Mysore Ordinance No I of 1950, in the *Mysore Gazette*, for general information.

B. S. PUTTASWAMY,
*Legal Remembrancer and*
*Secretary to Government,*
*Law Department.*

# MYSORE ORDINANCE No. I OF 1950.

## THE MYSORE VILLAGE PANCHAYET (AMENDMENT) ORDINANCE, 1950.

*(Promulgated by the Rajpramukh of Mysore on the 14th day of March 1950.)*

**An Ordinance further to amend the Mysore Village Panchayet Act, 1926.**

Preamble.

WHEREAS the Mysore Legislative Assembly is not in session and the Rajpramukh of Mysore is satisfied that circumstances exist which render it necessary for him to take immediate action further to amend the Mysore Village Panchayet Act, 1926;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Rajpramukh of Mysore is pleased to promulgate the following Ordinance :—

Short title and commencement.

**1.** (1) This Ordinance may be called the Mysore Village Panchayet (Amendment) Ordinance, 1950.

(2) It shall come into force at once.

Substitution of "Commissioner for Rural Development" for "Revenue Commissioner" in Act II of 1926.

**2.** In the Mysore Village Panchayet Act, 1926, (hereinafter referred to as the said Act), for the words "Revenue Commissioner", wherever they occur, the words "Commissioner for Rural Development", shall be substituted.

Insertion of new section 30-A in Act II of 1926.

**3.** After section 30 of the said Act, the following section shall be inserted, namely :—

Prohibition of use of any place as a dairy, hotel, etc., without license.

"30-A. (1) No place within the jurisdiction of a Panchayet shall be used as a dairy, hotel, restaurant, eating house, coffee house, sweetmeat shop, bakery, boarding house or lodging house (other than a students' hostel under public or recognised control), or for manufacturing ice or aerated water, without a license from the Amildar and except in accordance with the conditions specified therein.

(2) A license under this section shall be granted or renewed only on payment in advance of such fee as may be prescribed.

(3) The Amildar may, for reasons to be recorded in writing, refuse to grant or renew a license or suspend or cancel a license granted or renewed under sub-section (1) for default of any of the conditions subject to which the license was granted.

(4) The Amildar may, having regard to the local conditions, fix the number and category of dairies, hotels, restaurants, eating houses, coffee houses, sweetmeat shops, bakeries, boarding or lodging houses, and places for manufacturing ice or aerated water, and direct by order the closure of such places as may be specified by him used for the purposes aforesaid, in excess of those fixed by him :

Provided that no place shall be directed to be closed except after notice of not less than thirty days.

(5) Any person aggrieved by the refusal to grant or renew a license or by the suspension or cancellation of a license under sub-section (3) or by an order directing the closure of a place under sub-section (4) may, within thirty days of the date of communication of the order, appeal to the Deputy Commissioner ; and the decision of the Deputy Commissioner on such appeal shall be final."

**4.** After clause (*b*) of sub-section (1) of section 63 of the said Act, the following clause shall be inserted, namely :— Amendment of section 63, Act II of 1926.

"(*b a*) uses any place for any purpose specified in sub-section (1) of section 30-A without a license or after a license is suspended or cancelled or contrary to the conditions imposed by a license or contrary to an order under sub-section (4) of the said section directing the closure of the place ; or"

**5.** After clause (*g*) of sub-section (2) of section 65 of the said Act, the following clause shall be inserted namely :— Amendment of section 65, Act II of 1926.

"(*g a*) regulating the grant, renewal, refusal, suspension or cancellation of licenses under section 30-A and prescribing the forms and conditions of such licenses."

Repeal and Savings.

6. (1) The Mysore Village Panchayet (Amendment) (Emergency) Act, 1949, (LXVII of 1949), is hereby repealed.

(2) Notwithstanding the repeal by this Ordinance of the Mysore Village Panchayet (Amendment) (Emergency) Act, 1949, anything done or any action taken in exercise of any power conferred by the Mysore Village Panchayet Act, 1926, as amended by the said Emergency Act, shall be deemed to have been done or taken in exercise of the powers conferred by the said Act of 1926 as amended by this Ordinance, and any penalty incurred or proceeding commenced under the said Act of 1926 as amended by the said Emergency Act shall be deemed to be a penalty incurred or proceeding commenced under the said Act of 1926 as amended by this Ordinance as if this Ordinance were in force on the day on which such thing was done, action taken, penalty incurred or proceeding commenced.

JAYA CHAMARAJA WADIYAR,

*Rajpramukh of Mysore.*

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# The Mysore Gazette

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## PART IV

### Section I-B

### ACTS OF PARLIAMENT AND ORDINANCES OF THE PRESIDENT WHICH APPLY TO MYSORE.

### NOTIFICATIONS.

No. L. D. 1285—Legis. 18-49-22, dated Bangalore, 6th March 1950.

Ordered that the accompanying Indian Tariff (Amendment) Act, 1950, (Act V of 1950) published in the Gazette of India dated the 28th February 1950, be republished in the *Mysore Gazette* for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Legal Remembrancer and Secretary to Government, Law Department.*

Received the Assent on 24th February 1950.

## GOVERNMENT OF INDIA, MINISTRY OF LAW.

ACT No. V of 1950.

## THE INDIAN TARIFF (AMENDMENT) ACT, 1950.

AN

ACT

*further to amend the Indian Tariff Act, 1934.*

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Indian Tariff (Amendment) Act, 1950.

2. **Amendment of the First Schedule, Act XXXII of 1934.**— In the First Schedule to the Indian Tariff Act, 1934.—

(*i*) in item No. 11 (2),—

(*a*) in the third column, the word "Protective" shall be inserted ;

(*b*) in the fourth column, for the word "Free", the figures and words "20 per cent *ad valorem*" shall be substituted ; and

(*c*) in the last column headed "Duration of protective rates of duty, the word, figures and letters "March 31st 1952" shall be inserted ;

(*ii*) in item No. 11 (4).—

(*a*) in the fourth column, for the figures and words "18 per cent *ad valorem*", the figures and words "20 per cent *ad valorem*" shall be substituted ; and

(*b*) in the last column headed "Duration of protective rates of duty", for the word, figures and letters "March 31st, 1950", the word, figures and letters "March 31st 1952" shall be substituted ;

(*iii*) in item No. 11 (5),—

(*a*) in the third column, for the word "Revenue" the word "Protective" shall be substituted ;

(*b*) in the fourth column, for the figures and words "18 per cent *ad valorem*," the figures and words "20 per cent. *ad valorem*" shall be substituted; and

(*c*) in the last column headed "Duration of protective rates of duty," the word, figures and letters "March 31st, 1952" shall be inserted:

(*iv*) in item No. 72 (1), in the second column, for the words "The following textile machinery and apparatus by whatever power operated", the words "Textile machinery and apparatus by whatever power operated (not otherwise specified)" shall be substituted.

(*v*) after item No. 72 (33), the following item shall be inserted, namely:--

| | | | | | | |
|---|---|---|---|---|---|---|
| "72(34) | The following cotton textile machinery and apparatus and parts thereof, by whatever power operated, namely spinning ring frames, spinning rings, spindles and plain looms. | Protective | 10 per cent. *ad valorem*. | ... | ... | March 31 1953." |

K. V. K. SUNDARAM,
*Secretary.*

No. L.D. 1286—Legis. 18-49-23, dated Bangalore, 6th March 1950.

Ordered that the accompanying Imports and Exports (Control) Amendment Act, 1950, (VI of 1950), the High Courts (Seals) Act, 1950 (VII of 1950), the Control of Shipping (Amendment) Act, 1950 (VIII of 1950) and the Indian Tea Control (Amendment) Act, 1950 (IX of 1950) published in the *Gazette of India*, dated the 1st March, 1950, be republished in the *Mysore Gazette* for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Legal Remembrancer and Secretary to Government, Law Department.*

Received Assent on 27th February 1950.

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

ACT No. VI OF 1950.

# THE IMPORTS AND EXPORTS (CONTROL) AMENDMENT ACT, 1950.

AN

ACT

*further to amend the Imports and Exports (Control) Act*, 1947.

BE it enacted by Parliament as follows :—

1. **Short title.**—This Act may be called the Imports and Exports (Control) Amendment Act, 1950.

2. **Amendment of section 1, Act XVIII of 1947.**—In section 1 of the Imports and Exports (Control) Act, 1947 (hereinafter referred to as the said Act),—

(*a*) in sub-section (*2*), for the words and letter "Part B States" the words "the State of Jammu and Kashmir" shall be substituted, and

(*b*) in sub-section (*3*), for the words "for a period of three years only" the words, figures and letters "until the 31st day of March, 1955" shall be substituted.

3. **Amendment of section 2, Act XVIII of 1947.**—In section 2 of the said Act,—

(*a*) in clause (*b*), for the words "the States" the word "India" shall be substituted; and

(*b*) for clause (*d*), the following clause shall be substituted, namely :—

"(*d*) 'India' does not include the State of Jammu and Kashmir".

4. **Amendment of section 3, Act XVIII of 1947.**—In section 3 of the said Act, for the words "the States" wherever they occur, the word "India" shall be substituted.

**5. Substitution of new section for section 4A in Act XVIII of 1947.**—For section 4A of the said Act, the following section shall be substituted, namely :—

"4A. *Fees for applications for, and issue or renewal of licences.*—The Central Government may by order levy, subject to such exceptions, if any, in respect of any person or class of persons as may be specified in the order, any fee in respect of any application for any licence, or the issue or renewal of any licence, under any order made or deemed to have been made under this Act".

Received Assent on 27th February 1950.

## ACT No. VII OF 1950

## THE HIGH COURTS (SEALS) ACT, 1950.

AN

ACT

*to provide for the use of seals of common form and design by the High Courts in the States.*

BE it enacted by Parliament as follows :—

**1. Short title.**—This Act may be called the High Courts (Seals) Act, 1950.

**2. Seals of High Courts.**—(*1*) Every High Court in a Part A State or Part B State shall have and use, as occasion may arise, a seal bearing a device and impression of the Asoka Capital within an exergue or label surrounding the same, with the following inscriptions at convenient places, namely, "THE SEAL OF THE HIGH COURT AT (or OF)..... .....", followed by the name of the seat of the High Court or the name of the State, as the case may be, and "Satyameva Jayate" in Devanagari script.

(*2*) Every Court of the Judicial Commissioner for a Part C State shall have and use, as occasion may arise, a seal similar to the seal of a High Court in a Part A State, but with the first inscription reading "THE SEAL OF THE JUDICIAL COMMISSIONER'S COURT FOR....." followed by the name of the State.

(*3*) The provisions of this Act shall supersede any provision contrary thereto or inconsistent therewith contained in any Letters Patent, Order, direction or other law relating to the use of seals by High Courts.

**3. Repeal of Ordinance XIII of 1950.**—(*1*) The High Courts (Seals) Ordinance, 1950 (XIII of 1950) is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

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Received Assent on 27th February 1950.

ACT No. VIII OF 1950

## THE CONTROL OF SHIPPING (AMENDMENT) ACT, 1950.

AN

ACT

*further to amend the Control of Shipping Act*, 1947.

BE it enacted by Parliament as follows :—

**1. Short title.** This Act may be called the Control of Shipping (Amendment) Act, 1950.

**2. Amendment of section 1, Act XXVI of 1947.**—In sub-section (*3*) of section 1 of the Control of Shipping Act, 1947 (XXVI of 1947), for the figures "1950" the figures "1952" shall be substituted, and the proviso to that sub-section shall be omitted.

---

Received Assent on 27th February 1950.

ACT No. IX OF 1950

## THE INDIAN TEA CONTROL (AMENDMENT) ACT, 1950.

AN

ACT

*further to amend the Indian Tea ontrol Act*, 1938.

BE it enacted by Parliament as follows :—

**1. Short title and commencement.**—(*1*) This Act may be called the Indian Tea Control (Amendment) Act, 1950.

(*2*) It shall come into force on the 1st day of April, 1950.

**2. Amendment of section 1, Act VIII of 1938.**—In section 1 of the Indian Tea Control Act, 1938 (hereinafter referred to as the said Act),—

(*i*) in sub-section (*2*), the words and letter "except Part B States" shall be omitted; and

(*ii*) in sub-section (*4*), for the figures "1950" the figures "1955" shall be substituted.

**3. Substitution of "India" for "the States" in sections 2, 11, 15, 16 and 27 in Act VIII of 1938.**—In clause (*c*) of section 2, in clause (*a*) of section 11, in the proviso to sub-section (*1*) of section 15, in the proviso to sub-section (*2*) of section 16, and in sub-section (*1*) of section 27 of the said Act, for the words "the States", wherever they occur, the word "India" shall be substituted.

**4. Amendment of section 2, Act VIII of 1938.**—In section 2 of the said Act, clause (*gg*) shall be omitted.

**5. Amendment of section 3, Act VIII of 1938.**—In clause (*c*) of sub-section (*1*) of section 3 of the said Act, for the words and letter "one to represent tea estates in the States and one to represent tea estates in Part B States", the words and letters "one to represent tea estates in Part A States and Part C States and one to represent tea estates in the States of Mysore and Travancore-Cochin" shall be substituted.

**6. Amendment of section 12, Act VIII of 1938.**—In sub-section (2) of section 12 of the said Act, for the words and letters "a Part A State or a Part C State", the words "any State" shall be substituted.

**7. Substitution of "1950" for "1948" in sections 14, 26, 27 and 28 in Act VIII of 1938.** In sub-section (*1*) of section 14, section 26, section 27 and in sub-section (*1*) of section 28 of the said Act, for the figures "1948", wherever they occur, the figures "1950" shall be substituted.

**8. Omission of section 25, Act VIII of 1938.** Section 25 of the said Act shall be omitted.

**9. Amendment of section 26, Act VIII of 1938.** In section 26 of the said Act,—

(*i*) for the figures "1946" the figures "1948" shall be substituted; and

(*ii*) for the words "five per cent." the words "two per cent" shall be substituted.

**10. Amendment of section 27, Act VIII of 1938.** In sub-sections (*1*) and (*2*) of section 27 of the said Act, for the words "four per cent", wherever they occur, the words "five per cent" shall be substituted.

K. V. K. SUNDARAM,
*Secretary.*

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# PART IV

## Section 2-B

## NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS.

### NOTIFICATIONS.

(HOME DEPARTMENT).

No. H. 14027—Pol. 351-49-1, dated Bangalore, 11th March 1950.

In exercise of the powers conferred by rules 9 (1), 11, 12, 13 (1), 14, 15 and 16 of the Mysore Arms Rules, 1926, and in supersession of Notification No. P. 13133—Pol. 245-48-1, dated the 16th February 1949, His Highness the Maharaja is pleased to empower the Deputy Inspector-General of Police, City of Bangalore, to grant and renew licenses in Forms III, IV, VII, VIII, IX, X, XI and XII of the said Rules in respect of the Bangalore North and South Taluks (inclusive of Bangalore City and Civil Station) of Bangalore District.

By Order of the Rajpramukh,

His Highness the Maharaja,

K. SRINIVASAN,

*Chief Secretary to Government.*

No. S.R. 3892-93—E.D. 35-48-15, dated Bangalore, the 2nd March 1950.

In exercise of the powers conferred by Sections 16, 17 and 18 of the Matches (Excise Duty) Act, 1934, (Act III of 1934), His Highness the Maharaja Rajpramukh of Mysore is pleased to order the following further amendments to the Mysore Matches (Excise Duty) Rules, 1934 and to the Mysore Matches (Excise Duty) Supplementary Rules, 1939, namely :—

A. In the Mysore Matches (Excise Duty) Rules, 1934 :—

1. For sub-rule (1) of Rule 38 of the said Rules, the following sub-rule shall be substituted, namely ;

"(1) All matches issued for home consumption from a manufactory shall be contained in boxes or booklets and the number of matches contained in each such box or booklet shall be either *forty* or *sixty* ".

2. For Rule 40 of the said Rules, the following Rule be substituted namely :—

"40. (1) The banderols to be affixed to boxes or booklets of matches shall be issued from Government Treasuries and they shall be of the class appropriate to the class of boxes or booklets of matches to which they are to be affixed.

(2) A licensee claiming assessment of the matches produced at his factory at the preferential rates of duties provided in the schedule of rates of duty in Section 4 of the Matches (Excise Duty) Act, 1934, (III of 1934), for factories whose daily output does not exceed hundred gross of boxes per day, or for factories whose output does not exceed five lakhs gross of boxes per year, but exceeds hundred gross of boxes per day, shall at the time of purchasing the banderols present to the Treasury Officer, a certificate from the Deputy Commissioner in whose jurisdiction the factory is situated, stating the output of the factory and that the licensee is entitled to the preferential rates specified in the certificate.

(3) In the case of a factory whose daily output does not exceed hundred gross of boxes per day, a certificate granted under sub-rule (2) shall not be valid for more than three months from the date of issue, and may be cancelled at any earlier time, if it appears to the Deputy Commissioner that the daily output of the factory to which it relates, exceeds such limit.

(4) In the case of a factory whose output does not exceed five lakhs gross of boxes per year but exceeds hundred gross boxes per day, the certificate shall be valid only up to the end of the year for which it has been issued, and shall be cancelled at any earlier time, during such year, if up to such time, the actual output out of the factory from the commencement of the year has exceeded five lakhs gross of boxes.

(5) The Treasury Officer shall on presentation of a certificate prescribed in sub-rule (2) issue to the licensee, banderols of the distinctive colour provided for the particular scale of factory output specified in the certificate".

III. For Rule 41 of the said Rules, the following rule shall be substituted, namely :—

"41. Every box or booklet of matches, and where such boxes or booklets are issued in packets, each box or

booklet of a packet shall bear a banderol of the appropriate class according to the number of matches in each box or booklet ".

IV. After Rule 44 (A) of the said Rules, the following rule shall be inserted namely :—

44 B. (1) Every owner of a manufactory shall also print on the manufactory's label covering a box or booklet, the retail price of the box or booklet of matches on which such label is affixed.

(2) Any owner of a manufactory who contravenes this rule shall be punishable with imprisonment which may extend to one month or with fine which may extend to five hundred rupees or with both such imprisonment and such fine.

5. Chapter VII of the said Rules shall be omitted.

B. In the Mysore Matches (Excise Duty) Supplementary Rules, 1939 :—

1. In Rule 15, of the said Rules, the figures "1", "2", "8", "12", "20" and "80" wherever they occur shall be omitted.

2. In Rule 22 of the said Rules, for the second para the following para shall be substituted namely :—

"Cases or packets containing boxes or booklets of matches shall be distinguished by distinct marks to indicate whether they contain 40's, 60's or other kinds".

3. In forms ME3 and ME4 of the schedule to the said Rules, for the words and figures $\frac{\text{"Class"}}{1\ 2\ 3}$ the words and figures $\frac{\text{"Class}}{\text{40's, 60's, other kinds}}\frac{\text{"}}{}$ shall be substituted.

By Order of His Highness the Maharaja,

SYED ABDUL ALEEM,
*Secretary to Government,*
*Revenue Department.*

No. L. 9589—49. 104-49-6, Dated Bangalore 11th March 1950.

In exercise of the powers conferred by sub-section (3) of Section 1 of the Mysore Amusement Tax Act, 1932, the Government of Mysore are pleased to direct that the

provisions of the said Act, shall come into force in the Taluk Headquarter Towns of Channapatna and Dodballapur with effect from 1st April 1950.

By Order of His Highness the Maharaja,

---

No. T. 7122—R.T. 1-49-30, dated Bangalore, 13th March 1950.

In exercise of the powers conferred by Section 83 of Mysore Motor Vehicles and Road Traffic Act (XXVII), 1944, the Government of Mysore are pleased to exempt from payment of taxes in Mysore State leviable under the said Act, the motor vehicles owned by the Central Government and in charge of the local officers of the Directorate-General of Civil Aviation.

By Order of His Highness the Maharaja,

A. C. NIRVANI GOWDA,

*Secretary to Government,*
*Local Self-Government Department.*

No. A. F. 8668—Mart. 23-49-2, dated Bangalore, 6th March 1950.

The following draft amendments to the Mysore Agricultural Produce Markets Rules, 1947, which it is proposed to make in exercise of the powers conferred by sub-section (1) of section 6 of the Mysore Agricultural Produce Markets Act, 1939, (XVI of 1939), are hereby published for the information of persons likely to be affected thereby as required by sub-section (4) of the said section.

Notice is hereby given that objections or suggestions, if any, may be forwarded for consideration to the Secretary to the Government of Mysore, Departments of Food and Agriculture, within fifteen days from the date of publication in the Gazette of this Notification. Objections or suggestions not received within the said period will not be considered.

**Draft Amendments.**

1. In rule 13 of the said Rules, for the word "special" the word "ordinary" shall be substituted and the words "convened for the purpose" shall be omitted.

2. In rule 38 of the said Rules, for the word "Chairman" where it occurs for the first time the word "Secretary" shall be substituted.

3. In sub-rule (2) of rule 39 of the said Rules, for the word "Chairman" the word "Secretary" shall be substituted.

4. In rule 67 of the said rules, for the words "duly licensed weighmen or measurers," the words "weighmen and measurers appointed or licensed by the Committee" shall be substituted.

5. In rule 68 of the Rules,

(a) in sub-rule (1)

(i) after the words "licensed to practice," the words "or appointed" shall be inserted;

(ii) after the words "shall be given a licence" the words "or be appointed" shall be inserted: and

(iii) for the words and figure "a fee of Rs. 5" the words "a fee of fifteen rupees" shall be substituted;

(b) in sub-rule (2),

(i) after the words "the number of licensed" the words "or appointed" shall be inserted; and

(ii) after the words "practised as a licensed" the words "or appointed" shall be inserted.

(c) in sub-rule (4), after the words "licensed" wherever it occurs, the words "or appointed" shall be inserted.

6. Rule 69 of the said Rules shall be numbered as sub-rule (1) of that rule and in the sub-rule as so numbered, after the word "licensed," the word "appointed" shall be inserted, and the words "without a licence or" shall be omitted; and after the said sub-rule, the following sub-rule shall be added, namely:—

"(2) Any person other than a person appointed under rule 67 as weighman or measurer by the Committee, who practises in the market as weighman or measurer without a licence shall be punishable with a fine which may extend to Rs. 50.

7. In rules 71 and 73 of the said Rules, after the word "licensed" wherever it occurs the words "or appointed" shall be inserted.

By Order of His Highness the Maharaja,

No. C. 1374—Co. 23-49-35, dated Bangalore, 7th March 1950.

In exercise of the powers conferred by section 3 and clause (a) of sub-section (1) of section 4 of the Mysore Drugs (Control) (Emergency) Act, 1949 (Act No. LXVIII of 1949), His Highness the Maharaja, the Rajpramukh of Mysore, is pleased to direct that the following further amendments shall be made in the Schedule to Notification No. C., 3130—Co., dated the 3rd October 1949, namely :—

In respect of the drugs in the said schedule specified in column 1 hereunder which are manufactured by the Upjohn Company, U.S.A. and Glaxo Laboratories, for the prices specified in column 2 of the said schedule, the prices specified in column 2 hereunder shall be substituted.

*The Upjohn Company, U.S.A.*

| | Rs. | a. | p. |
|---|---|---|---|
| Penicillin G Crystalline— | | | |
| 100,000 Units ... | 2 | 0 | 0 |
| 200,000 Units ... | 3 | 2 | 0 |
| 500,000 Units ... | 6 | 8 | 0 |
| Penicillin Ointment (Topical) 1 ounce ... | 7 | 0 | 0 |
| Penicillin Ointment (Ophthalmic) 1 drachm ... | 3 | 8 | 0 |
| Depo-Penicillin (with disposable Syringe) 1 c.c. Cartridge ... | 11 | 12 | 0 |
| Super A Vitamin Conc. Capsules 50's ... | 13 | 0 | 0 |

*Glaxo Laboratories.*

| | | | |
|---|---|---|---|
| Septanilam (Sulphanilamide) | | | |
| Tablets 25's ... | 1 | 4 | 0 |
| Tablets 100's ... | 2 | 11 | 0 |
| Tablets 1000's ... | 18 | 11 | 0 |

By Order of His Highness the Maharaja,

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No. A. F. 8747—Mart. 16-49-5, dated Bangalore 7th March 1950.

Under Section 5 of the Mysore Agricultural Produce Markets Act (No. XVI of 1939) and in continuation of Notification No. A. F.-5055—Mart.16-49-3, dated 29th December 1949, the Government of Mysore are pleased to declare that the marginally noted Taluks shall be the area, the producers of Agricultural Produce in which shall be entitled to be represented on the Market Committee for the Market constituted in Notification No. A. F. 5051—Mart 16-49-2, dated 29th December 1949.

*Shimoga District.*—
1. Shimoga
2. Thirthahally
3. Nagar
4. Sagar
5. Sorab

*Chikmagalur District.*—
1. Koppa
2. Tarikere
3. Kadur
4. Mudgere

By Order of His Highness the Maharaja,

No. C. 1465—Co. 24-49-9 Bangalore, Dated 11th March 1950.

In exercise of the powers conferred by sub-rule 2 of Rule 81 of the Defence of India Rules, as applied to Mysore and continued by the Supplies, Services and Miscellaneous Provisions (Temporary Powers) Act, 1947 (Act XX of 1947) His Highness the Maharaja is pleased to direct that the following amendment shall be made to the Mysore Cotton Textiles (Export Control) Order, 1949 and to direct with reference to sub-rule (1) of rule 119 of the said rules that notice of the amendment shall be given by the publication of the same in the official Gazette, namely :—

I. In clause 2 of the said order, sub-clause (*c*) shall be deleted and the existing sub-clauses (*f*) and (*g*) shall be re-numbered as sub-clauses (*e*) and (*f*).

II. In clause 3 of the said Order, the words " the selling price " shall be deleted.

III. Clauses 5 and 8 of the said Order shall be deleted and the existing clauses 6, 7, 9, 10, 11 and 12 shall be renumbered as clauses 5, 6, 7, 8, 9 and 10, respectively.

IV. In sub-clause (*b*) of Clause 7 so renumbered, the words " and the prices charged therefor " shall be deleted.

By Order of His Highness the Maharaja,

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No. C. 1478—Co. 28-49-37, Bangalore, dated 13th March 1950.

In exercise of the powers conferred by Section 3 and clause (a) of Sub-section (1) of Section 4 of the Mysore Drugs (Control) (Emergency) Act, 1949 (Act No. LXVIII of 1949), His Highness the Maharaja is pleased to direct that the following further amendments shall be made in the Schedule to Notification No. C. 3130—Co., dated the 3rd October 1949, namely :—

In respect of the drugs in the said schedule specified in column 1 hereunder, which are manufactured by Lederle Laboratories (India), Ltd., Bombay, for the prices

specified in column 2 of the said schedule, the prices specified in column 2 hereunder shall be substituted :—

**Lederle Laboratories (India), Ltd., Bombay.**

| | | Rs. a. p. |
|---|---|---|
| (i) Folvite with liver extract, crude Brand of folic acid (c), Each c.c. contains: .. | 2 U.S.P. | 9 6 0 |
| Folvite 2 mg. liver injection Crude 2 U.S.P. units ... | 10 c.c. | |
| (ii) Vitamin B complex Parenteral, Each c.c. contains: 5 U.S.P. units liver extract (c) | 5 c.c. | 9 2 0 |

By Order of His Highness the Maharaja,

A. S. KHALEEL,

*Secretary to Government,*
*Food and Agricultural Departments.*

No. Fl. 7084—S.T. 9-49-3, dated Bangalore, the 6th March 1950.

The following draft of an amendment to the Mysore Sales Tax Rules, 1948, which it is proposed to make in exercise of the powers conferred by section 25 of the Mysore Sales Tax Act, 1948, (XLVI of 1948), is hereby published for the information of all persons likely to be affected thereby as required by sub-section (4) of the said section.

Notice is hereby given that the draft will be taken into consideration after four weeks from the date of publication of this notification in the *Mysore Gazette.*

Objections or suggestions, if any, to the said draft may be sent to the Legal Remembrancer and Secretary to Government, Law Department, Public Offices, Bangalore, through the Commissioner of Sales Tax in Mysore, Bangalore, for consideration so as to reach him within the said date.

## DRAFT AMENDMENT.

In the Mysore Sales Tax Rules, 1948, after clause (iii) of rule 9 the following clause shall be inserted, namely :—

"(iv) The sale of textiles manufactured by Mills shall be liable to tax under section 3, sub-section (i) when sold by a person who in Mysore is the first dealer in such

goods who is not exempt from taxation under section 3 (3) provided that the burden of proving that a transaction is not liable to taxation under this clause shall be on the dealer."

By Order of His Highness the Maharaja,

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No. Fl. 7171—S.T. 9-49-4, dated Bangalore, 10th March 1950.

In exercise of the powers conferred by section 25 of the Mysore Sales Tax Act, 1948 (XLVI of 1948), the Rajpramukh of Mysore His Highness the Maharaja is pleased to make the following further amendments to the Mysore Sales Tax Rules, 1948, the same having been previously published in the *Mysore Gazette* as required by sub-section (4) of the said section.

In the Mysore Sales Tax Rules, 1948,—

(1) To Rule 13, the following proviso shall be added, namely :—

"Provided that in respect of the year 1949-50 commencing on the 1st day of July 1949 and ending with the 31st day of March 1950, a dealer's liability to pay any tax for that year shall be fixed *pro rata* on the average of the turnover for a full year of twelve months based on the turnover for final assessment for the year 1948-49 and the tax payable being recovered in quarterly instalments."

(2) To Rule 14, the following proviso shall be added, namely :—

"Provided that in respect of the year 1949-50 commencing on the 1st day of July 1949 and ending with the 31st day of March 1950, a dealer's liability to any tax for that year shall be fixed *pro rata* on the average of the turnover for a full year of twelve months based on the turnover for final assessment for the year 1948-49, the tax payable being recovered in quarterly instalments."

(3) To Rule 16, the following provisos shall be added, namely :—

"(i) Provided that in respect of the year 1949-50 commencing on the 1st day of July 1949 and ending with the 31st day of March 1950 if the notice aforesaid has been issued to the dealer before the 10th March 1950, it shall be deemed to have been lawfully issued and the tax payable for the first three quarters shall be deemed to have been lawfully fixed in respect of the year 1949-50 ;

(ii) Provided further that, if no such notice is issued to the dealer before the 10th March 1950, the assessing authority shall issue a notice to him in Form VIII-2 for the three quarters of the year."

(4) After clause C (*a*) of sub-rule (4), Rule 17, the following proviso shall be inserted, namely :—

"Provided that in respect of the year 1949-50 the assessing authority shall make provisional assessment for the three quarters of the year. Provided also that the dealer's liability to pay any tax for that year shall be fixed on the average of the turnover for a full year based on the turnover for final assessment for the year 1948-49".

(5) In Rule 17 (4), after the first sentence, the following provisos shall be inserted, namely :—

"(i) Provided that in respect of the year 1949-50 commencing on the 1st day of July 1949 and ending with the 31st day of March 1950 if the notice aforesaid has been issued to the dealer before the 10th March 1950, it shall be deemed to have been lawfully issued and the tax payable for the first three quarters shall be deemed to have been lawfully fixed in respect of the year 1949-50.

(ii) Provided further that if no such notice is issued to the dealer before the 10th March 1950, the assessing authority shall issue a notice to him in Form VIII-2 for the three quarters of the year.

(iii) Provided also that in respect of the year beginning on the first day of April 1950, he shall continue to pay tax as in the last quarter of the preceding year."

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Legal Remembrancer and Secretary to Government, Law Department.*

No. L.S. 3375—Lw. 200-49-2, dated Bangalore, 9th March 1950.

In pursuance of sub-section (3) of Section (1) of the Mysore Shops and Establishments Act, 1948, (Act II of 1948), the Rajpramukh of Mysore, His Highness the Maharaja, is pleased to direct that all the provisions of the said Act shall come into force on 15th April 1950 in Davangere City.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Secretary to Government, Law Department.*

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# The Mysore Gazette

(PUBLISHED BY AUTHORITY)

EXTRAORDINARY

BANGALORE, SATURDAY, MARCH 18, 1950.


## PART IV

### Section 2-A.

### BILLS TO BE INTRODUCED IN THE LEGISLATIVE ASSEMBLY OF THE STATE OF MYSORE.

Under rule 36 of the Mysore Legislative Rules, the following Bill, together with Statement of Objects and Reasons, is published for general information.

## THE MYSORE MAINTENANCE OF PUBLIC ORDER BILL, 1950.

ARRANGEMENT OF CLAUSES.

*Clauses.*


1. Short title, extent and duration.
2. Control of meetings, processions, etc.
3. Control of camps, drill or parades.
4. Wearing or display of uniforms, etc.
5. Curfew.
6. Possession of unlicensed arms and import of arms prohibited in disturbed areas.
7. Imposition of collective fines.

*Clauses.*

8. Power to impose censorship.
9. Control of commodities, etc.
10. Incitement to violence, etc.
11. Protected areas.
12. Powers to require the assistance of certain persons.
13. Powers of search.
14. Power to seize and search for copies of documents which have been forfeited.
15. Power to arrest without warrants.
16. Attempts to contravene provisions of the Act.
17. Delegation of powers and duties of the Government.
18. Savings as to orders.
19. Protection of action taken under the Act.
20. Application of other laws not barred.
21. Power to make rules.
22. Repeal and savings.

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# THE MYSORE MAINTENANCE OF PUBLIC ORDER BILL, 1950.

**A Bill to provide for control of meetings and processions, imposition of collective fines, and certain other purposes.**

WHEREAS it is expedient for the maintenance of public order in Mysore State, to provide for control of meetings and processions, imposition of collective fines, and certain other purposes ; Preamble.

It is hereby enacted as follows :—

**1.** (1) This Act may be called the Mysore Maintenance of Public Order Act, 1950. Short title, extent, and duration.

(2) It extends to the whole of Mysore State.

(3) It shall remain in force for a period of two years.

**2.** (1) The State Government may, for the purpose of securing the maintenance of public order, by general or special order, prohibit, restrict or impose conditions upon the holding of, or taking part in, processions, meetings, or assemblies by a class of persons or organizations whose activities, in the opinion of the State Government, are subversive of law and order. Control of meetings, processions, etc.

(2) If any person contravenes any order issued under this section, he shall be punishable with imprisonment for a term which may extend to one year, or with fine or with both.

**3.** (1) The State Government may, in the interests of maintenance of public order, by order, prohibit or impose such conditions as may be necessary on the holding of camps or performance of drill or parade with or without arms, or any article, weapon or implement capable of being used as arms by any class of persons or organizations whose activities are in the opinion of the State Government subversive of law and order. Control of camps, drill or parades.

(2) Any contravention of an order made under this section shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Wearing or display of uniforms, etc.

4. (1) If the State Government are satisfied that—

(*a*) the wearing in public of any dress or article of dress resembling any uniform or part of a uniform required to be worn by a member of the Armed Forces of the Union or of any Police or other forces constituted under any law for the time being in force, or

(*b*) the wearing or display in public of any distinctive dress or article of dress or any emblem or token,

is likely to prejudice the maintenance of public order, they may, by order notified in the *Mysore Gazette*, prohibit or regulate the wearing or display in public of any such dress, article of dress, emblem or token.

(2) For the purposes of this section, a person wherever he may be, shall be deemed to wear or display in public, a dress, article of dress, emblem or token, if it is so worn or displayed as to be visible from any place to which public have access.

(3) Whoever contravenes any order made under this section shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

Curfew.

5. (1) The District Magistrate, whenever it appears to him to be necessary to ensure the maintenance of public order, may by order direct that subject to any specified exemption,—

(*a*) no person present within any specified area shall, between such hours as may be specified, be out of doors except under the authority of a written permit granted by a specified authority or person ;

(*b*) no person within a specified area shall put up any barricade or any obstruction across, or in any public road, or public place or part thereof.

(2) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

**6.** (1) When any disturbance has broken out or is apprehended in any area in the State, the State Government may, by notification in the *Mysore Gazette*, declare such area to be a disturbed area.

Possession of unlicensed arms and import of arms prohibited in disturbed areas.

(2) Notwithstanding anything in any other law for the time being in force, if, in any area which has been notified by the State Government to be a disturbed area, any arms for which he has no valid license are found in the possession of any person or in any premises which are ordinarily in his occupation or control, then, such person shall be punishable with imprisonment for a term which may extend to five years or with fine or with both:

Provided that no person shall be deemed to have committed any offence under this sub-section in respect of any arms found in any premises which are ordinarily in his occupation or control, if he proves that he had no knowledge of such arms being in such premises and that he had taken reasonable care to prevent such arms being kept therein.

(3) Whoever imports arms of any description into any area which has been notified by the State Government to be a disturbed area without a license in that behalf obtained from a Magistrate of the first class having jurisdiction over such area shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both, and the Court trying the offence shall order that the arms in respect of which the offence has been committed shall be forfeited to the State Government.

(4) No prosecution shall be instituted against any person for an offence punishable under this section except with the previous sanction of the State Government, and the wearing and carrying of a *kirpan* by any person professing the Sikh religion shall not be deemed to be an offence under this section.

(5) For the purposes of this section, 'arms' includes fire arms, bayonets, swords, daggers, spears, spearheads, bows and arrows and parts of such arms.

**7.** (1) If it appears to the State Government that the inhabitants of any area are concerned in, or abetting the commission of, offences prejudicially affecting the

Imposition of collective fines.

maintenance of public order or are harbouring persons concerned in the commission of such offences, or are failing to render all the assistance in their power to discover or apprehend the offender or offenders, or are suppressing material evidence of the commission of such offences, the State Government may, by notification in the *Mysore Gazette*, and by publication in such other manner as they think fit, impose a collective fine on the inhabitants of that area:

Provided that an imposition of a collective fine by any officer or authority to whom the power may have been delegated under this Act may be made by publication of the order imposing the fine in such manner as such officer or authority may consider best calculated to bring the order to the notice of the inhabitants of the area concerned.

(2) The State Government or any officer empowered by them in this behalf may, by general or special order, exempt any person or class or section of such inhabitants from liability to pay any portion of such fine.

(3) The District Magistrate, after such inquiry as he may deem necessary, shall apportion such fine among the inhabitants who are liable collectively to pay it, and such apportionment shall be made according to the Magistrate's judgment of the respective means of such inhabitants.

(4) In any such apportionment, the Magistrate may direct a joint or undivided family as such to pay such portion of the fine as may be assigned to it.

(5) The portion of such fine payable by any person (including a joint or undivided family) may be recovered—

(*a*) in the manner provided by the Code of Criminal Procedure, 1904, for the recovery of fines imposed by a Court, as if such portion were a fine imposed by the Magistrate acting as a Court:

Provided that the State Government may, in lieu of the rules referred in sub-section (2) of section 386 of the Code of Criminal Procedure, 1904, make rules under this Act regulating the manner in which warrants under clause (*a*) of sub-section (1) of the said section of the said

Code are to be executed, and for the summary determination of any claims made by any person other than the person liable to pay the fine in respect of any property attached in execution of the warrant; or

(*b*) as arrears of land revenue.

(6) The State Government or the officer empowered under sub-section (2) may, after making such enquiry as may be deemed necessary, refund either wholly or in part any fine paid by or recovered from any person under this section.

Power to impose censorship.

**8.** (1) The State Government may, for the purpose of securing the maintenance of public order, by order addressed to a printer, keeper of a printing press, publisher or editor, or to printers, keepers of printing presses, publishers and editors generally—

(*a*) require that all matter, or any matter relating to a particular subject or class of subjects, shall, before being published in any document or class of documents, be submitted for scrutiny to an authority specified in the order;

(*b*) prohibit or regulate the making or publishing of any document or class of documents, or of any matter relating to a particular subject or class of subjects, or the use of any press, as defined in the Mysore Press and Newspapers Act, 1940;

(*c*) require that any matter relating to or arising out of any matter published in any previous issue of any newspaper be published in any particular issue or issues of such newspaper in such manner as may be specified in the order.

(2) The State Government may for the purpose of securing the maintenance of public order, by order notified in the *Mysore Gazette*, prohibit or regulate the entry into, or the circulation, sale, distribution or possession in the State or any part thereof, of any document or class of documents.

(3) If any person contravenes any order made under sub-section (1), or sub-section (2) then, without prejudice to any other proceedings, which may be taken against such person, the State Government may declare to be forfeited to the State Government every copy of any

document in respect of which the order has been contravened and any press, as defined in the Mysore Press and Newspapers Act, 1940, used in the making of such document.

(4) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine, or with both.

(5) For the purposes of this section, 'document' includes—

(*a*) a newspaper, that is to say, any periodical work containing public news or comments on public news;

(*b*) a news-sheet, that is to say, any work (other than a periodical work) containing public news or comments on public news;

(*c*) a book, that is to say, any volume, pamphlet or leaflet in any language, or any part or division of any such volume, pamphlet or leaflet;

(*d*) any sheet of music, map, chart or plan, separately printed or lithographed; and

(*e*) any painting, drawing or photograph or other visible representation.

Control of commodities, etc.

**9.** (1) If, in the opinion of the State Government, it is essential for the purpose of securing the maintenance of public order, to restrict the removal of any commodity, article or thing from the State, the State Government may, by order notified in the *Mysore Gazette*, direct that no person shall remove such commodity, article or thing from the State without the permission in writing of the District Magistrate.

(2) Whoever contravenes any order made under sub-section (1) shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Incitement to violence, etc.

**10.** (1) Whoever by words spoken or written or by signs or visible representations or otherwise, directly or indirectly instigates or incites any person to use criminal force or violence or to commit mischief against the person or property of any individual or individuals or any

section of the public either immediately or on the occurrence or the likelihood of the occurrence of a contingency, shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(2) No prosecution shall be instituted against any person for an offence punishable under this section, except with the previous sanction of the District Magistrate concerned.

**Protected areas.**

**11.** (1) It the State Government considers it necessary or expedient to regulate the entry of persons into any area, they may, by order notified in the *Mysore Gazette*, declare the area to be a protected area; and thereupon for so long as the said order is in force, such area shall be a protected area.

(2) On and after such day as may be specified in and subject to any exemptions for which provision may be made by an order made under sub-section (1) no person who was not at the beginning of the said day resident in the area declared to be a protected area by the said order, shall be therein, except in accordance with the terms of a permit in writing granted to him by an authority or person specified in the said order.

(3) Any Police Officer or any other person authorised in this behalf by the State Government, may search any person entering or seeking to enter, or being or in, or leaving, a protected area, and any vehicle, aircraft or article brought in by such person, and may, for the purposes of the search, detain such person, vehicle, aircraft, and article:

Provided that no female shall be searched in pursuance of this sub-section except by a female.

(4) If any person is in a protected area in contravention of the provisions of this section, then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by or under the direction of any Police Officer on duty in the protected area.

(5) If any person is in a protected area in contravention of any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(6) Any person who effects or attempts to effect entry into a protected area—

(*a*) by using, or threatening to use, criminal force to any person posted for the purpose of protecting or of preventing or controlling access to, such place or area, or

(*b*) after taking precautions to conceal his entry or attempted entry from any such person, shall be punishable with imprisonment for a term which may extend to seven years.

(7) (*a*) The State Government as respect any area declared by them to be protected area, may make orders for controlling or regulating the admission of persons to and the conduct of persons in, and in the vicinity of such area ;

(*b*) Without prejudice to the generality of the foregoing provision, orders made under clause (*a*) in relation to any area may make provision for—

(i) restricting the admission of persons to such area and for removing therefrom any person who is therein in contravention of such orders ;

(ii) for requiring the presence of any person or class of persons in such area to be notified to a prescribed authority ;

(iii) for requiring any person or class of persons in such area to carry such documentary evidence of identity as may be prescribed ; and

(iv) for prohibiting any person or class of persons from being in possession or control of any prescribed article.

(*c*) An order made under this sub-section in respect of a protected area may exempt such area from all or any of the provisions of this section which are expressed to apply to or in relation to a protected area or may direct that all or any of the said provisions shall apply subject to such modifications as may be specified in the order.

(*d*) If any person contravenes any order made under this sub-section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

**12.** (1) Any officer of the State Government authorized in this behalf by general or special order of the State Government may, within such area as may be specified in the order, require any male person in that area to assist in the maintenance or restoration of law and order or in the protection of property for such period and in such manner as the officer may direct.

Powers to require the assistance of certain persons.

(2) If any person fails to comply with any lawful direction given to him under sub-section (1) he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

**13.** (1) The State Government may, by general or special order, empower any officer to search any place, stop and search any vessel, vehicle or animal, and seize anything which he has reason to believe has been, is being, or is about to be, used for any purpose prejudicial to the maintenance of public order.

Powers of search.

(2) Any officer empowered under sub-section (1) shall forthwith report to the State Government in detail, any seizure made by him and pending the receipt of their orders, may detain in custody anything so seized or take such other step for its safe custody as he may think proper.

(3) The State Government may make such order as they think fit for the disposal of anything seized under sub-section (1), by destruction, confiscation or in such other manner as they may direct.

(4) An officer empowered under sub-section (1) may, subject to the control of the State Government, authorise any officer subordinate to him to exercise any of the powers referred to in sub-section (1).

*Explanation.*—For the purpose of this section, 'place' includes a house, building, shed, enclosure and tent.

**14.** If copies of any document are declared to be forfeited to the State Government under sub-section (3) of section 8, any Police Officer may seize the same wherever found in the State and any Magistrate may, by warrant, authorize any Police Officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such document may be or may be reasonably suspected to be.

Power to seize and search for copies of documents which have been forfeited.

Power to arrest without warrant.

**15.** Any Police Officer may arrest without warrant any person who is reasonably suspected of having committed an offence punishable under this Act.

Attempts to contravene provisions of the Act.

**16.** Any person who attempts to contravene, or abets, or attempts to abet, or does any act preparatory to a contravention of, any of the provisions of this Act or of any order made thereunder, shall be deemed to have contravened that provision or, as the case may be, that order.

Delegation of powers and duties of the Government.

**17.** The State Government may, by order, direct that any power or duty which is conferred or imposed on them shall, in such circumstances and under such conditions, if any, as may be specified in that direction be exercised or discharged by any officer or authority subordinate to the State Government not being in the opinion of the State Government, below the rank of a District Magistrate.

Savings as to orders.

**18.** (1) No order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

(2) Where any such order as is referred to in sub-section (1) purports to have been made and signed by any authority in exercise of any power conferred by or under this Act, a Court shall, within the meaning of the Indian Evidence Act, 1872, as in force in the State, presume that such order was so made by such authority.

Protection of action taken under the Act.

**19.** (1) No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of this Act.

(2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act.

Application of other laws not barred.

**20.** The provisions of this Act shall be in addition to and not in derogation of any other Act, for the time being in force.

Power to make rules.

**21.** The State Government may, by notification in the *Mysore Gazette*, make rules for carrying out the purposes of this Act.

22. (1) The Mysore Maintenance of Public Order Act, 1948, (LVIII of 1948), is hereby repealed. Repeal and savings.

(2) Any order made, notification issued, direction given, action or proceeding taken or anything done, under any provision of the Mysore Maintenance of Public Order Act, 1948, shall be deemed to be an order made, notification issued, direction given, action or proceeding taken or thing done under the corresponding provision of this Act and any liability or penalty incurred, any punishment awarded and any prosecution commenced under any provision of the said Act shall be deemed to have been incurred, awarded or commenced under the corresponding provisions of this Act.

## Statement of Objects and Reasons.

The Mysore Maintenance of Public Order Act, 1948, provides that its duration shall be one year and empowers the Government to extend the continuance of the Act for a further period of one year. The duration of the Act has accordingly been extended by one year and this period expires on the 6th August, 1950. The situation in the State still demands that the State Government should be adequately armed to meet and deal effectively with the activities of social disruptive forces. It is therefore considered necessary to continue the provisions relating to the maintenance of public order for a further period of two years. In view of the fact that in a recent judgment of the Federal Court of India it has been held that the Legislature cannot delegate its power of extending the duration of an enactment it is considered desirable to re-enact the measure.

T. MARIAPPA,

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Legal Remembrancer and*
*Secretary to Government,*
*Law Department.*

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## PART IV

### Section I-B

### ACTS OF PARLIAMENT AND ORDINANCES OF THE PRESIDENT WHICH APPLY TO MYSORE.

### NOTIFICATIONS.

No. L.D. 1380—Legis. 18-49-25, dated Bangalore, 16th March 1950.

Ordered that the accompanying Indian Railways (Amendment) Act, 1950 (XI of 1950), published in the Gazette of India, dated the 7th March 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Legal Remembrancer and*
*Secretary to Government,*
*Law Department.*

Received the assent on the 1st March 1950

ACT No. XI OF 1950.

# THE INDIAN RAILWAYS (AMENDMENT) ACT, 1950.

AN

ACT

*further to amend the Indian Railways Act,* 1890.

BE it enacted by Parliament as follows :—

**1. Short title.**—This Act may be called the Indian Railways (Amendment) Act, 1950.

**2. Insertion of new Section 27-A in Act IX of 1890.**—After section 27 of the Indian Railways Act, 1890, the following section shall be inserted, namely :—

"27-A. *Power of Central Government to give directions in regard to transport of goods by railway administration.*—(*1*) The Central Government may, if in its opinion it is necessary in the public interest so to do, by general or special order, direct any railway administration to give special facilities for, or preference to, the transport of any such goods or class of goods consigned to the Central Government or to the Government of any State or of such other goods or class of goods as may be specified in the order.

(*2*) Any order made under sub-section (*1*) shall cease to have effect after the expiry of six months from the date thereof, but it may be renewed from time to time.

(*3*) Notwithstanding anything contained in this Act, every railway administration shall be bound to comply with any direction given under sub-section (*1*), and any action taken by a railway administration in pursuance of any such direction shall not be deemed to be a contravention of section 28."

No. L.D. 1381--Legis. 18-49-26, dated, Bangalore, the 16th March 1950.

Ordered that the accompanying Emblems and Names (Prevention of Improper use) Act, 1950 (XII of 1950) published in the Gazette of India, dated the 7th March 1950, be republished in the *Mysore Gazette*, for general information.

By Order of
His Highness the Maharaja,
B. S. PUTTASWAMY,
*Legal Remembrancer and*
*Secretary to Government, Law Department.*

Received the assent on the 1st March 1950.

ACT No. XII OF 1950.

## THE EMBLEMS AND NAMES (PREVENTION OF IMPROPER USE) ACT 1950.

AN

ACT

*to prevent the improper use of certain emblems and names for professional and commercial purposes.*

Be it enacted by parliament as follows:—

**1. Short title, extent, application and commencement.**—(1) This Act may be called the Emblems and Names (Prevention of Improper Use) Act, 1950.

(2) It extends to the whole of India except the State of Jammu and Kashmir, and also applies to citizens of India outside India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Definitions.**—In this Act, unless the context otherwise requires.—

(*a*) "emblem" means any emblem, seal, flag, insignia, coat-of-arms or pictorial representation specified in the Schedule;

(*b*) "competent authority" means any authority competent under any law for the time being in force to register any company, firm or other body of persons or any trade mark or design or to grant a patent;

(*c*) "name" includes any abbreviation of a name.

**3. Prohibition of improper use of certain emblems and names.**—Notwithstanding anything contained in any law for the time being in force, no person shall, except in such cases and under such conditions as may be prescribed by the Central Government, use, or continue to use, for the purpose of any trade, business, calling or profession, or in the title of any patent, or in any trade mark or design any name or emblem specified in the Schedule or any colourable imitation thereof without the previous permission of the Central Government or of such officer of Government as may be authorised in this behalf by the Central Government.

**4. Prohibition of registration of certain companies, etc.**—(1) Notwithstanding anything contained in any law for the time being in force, no competent authority shall.—

(*a*) register any company, firm or other body of persons which bears any name, or

(*b*) register a trade mark or design which bears any emblem or name, or

(*c*) grant a patent in respect of an invention which bears a title containing any emblem or name,
if the use of such name or emblem is in contravention of section 3.

(2) If any question arises before a competent authority whether any emblem is an emblem specified in the Schedule or a colourable imitation thereof, the competent authority may refer the question to the Central Government, and the decision of the Central Government thereon shall be final.

**5. Penalty.**—Any person who contravenes the provisions of section 3 shall be punishable with fine which may extend to five hundred rupees.

**6. Previous sanction for prosecution.**—No prosecution for any offence punishable under this Act shall be instituted, except with the previous sanction of the Central Government or of any officer authorised in this behalf by general or special order of the Central Government.

**7. Savings.**—Nothing in this Act shall exempt any person from any suit or other proceeding which might, apart from this Act, be brought against him.

**8. Power of the Central Government to amend the Schedule.**—The Central Government may, by notification in the Official Gazette, add to or alter the Schedule, and any such addition or alteration shall have effect as if it had been made by this Act.

**9. Power to make rules.**—The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

## THE SCHEDULE

[*See* sections 2(*a*) and 3.]

1. The name, emblem or official seal of the United Nations Organization.

2. The name, emblem or official seal of the World Health Organization.

3. The Indian National Flag.

4. The official seal or emblem of the Government of India or of any State, or any other insignia or coat-of-arms used by any such Government or by a Department of any such Government.

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No. L.D. 1501—Legis. 18-49-28, dated Bangalore, the 20th March 1950.

Ordered that the accompanying The Parliament (Prevention of Disqualification) Act, 1950 (XIX of 1950) published in the *Gazette of India*, dated the 11th March 1950, be re-published in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Legal Remembrancer and Secretary to Government, Law Department.*

Received Assent on 11th March 1950.

# THE PARLIAMENT (PREVENTION OF DISQUALIFICATION) ACT, 1950 (XIX OF 1950).

AN

ACT

*to make provision in regard to certain offices of profit under article* 102 *of the Constitution.*

BE it enacted by Parliament as follows :—

1. **Short title.**—This Act may be called The Parliament (Prevention of Disqualification) Act, 1950.

2. **Prevention of disqualification for membership of Parliament.**—A person shall not be disqualified for being chosen as, and for being, a member of Parliament by reason only of the fact that he holds any of the following offices of profit under the Government of India or the Government of any State, namely, an office of a Minister of State or a Deputy Minister or a Parliamentary Secretary or a Parliamentary Under-Secretary.

K. V. K. SUNDARAM, *Secy.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

# PART IV

## Section 1-C

**NOTIFICATIONS, RULES, ORDERS, ETC., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.**

## NOTIFICATIONS.

(HOME DEPARTMENT).

No. H. 14400—Pts. 25-49-2, dated Bangalore, the 15th March 1950.

The following Notification No. 6-36-49—F. I, dated the 14th December 1949, from the Government of India, Ministry of Home Affairs, New Delhi, is re-published hereunder for general information.

"In exercise of the powers conferred by Section 3 of the Registration of Foreigners Act,, 1939 (XVI of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Registration of Foreigners Rules, 1939, the same having been previously published as required by the said section. namely :—

in the said Rules—

(*i*) in rule 10,

(*a*) in sub-rule (1), for the words "one week or more", the words "two weeks or more" shall be substituted;

(*b*) in sub-rule (3), for the words "three days", wherever they occur, the word "seven days" shall be substituted.

(*ii*) in sub-rule (2) of rule 11, for the words "twenty-four hours", the words "forty-eight hours" shall be substituted.

By Order of His Highness the Maharaja,

K. SRINIVASAN,

*Chief Secretary to Government.*

No. 6750—Cts. 205-49-1, dated Bangalore, 18th March 1950.

Under Clause (1) of Article 299 of the Constitution of India, His Highness the Maharaja of Mysore is pleased to direct that all contracts and all assurances of property made in the exercise of the executive power of the Government of Mysore shall be executed on behalf of His Highness the Maharaja by the Secretary to the Government of Mysore in the Department relating to the subject matter of the said contracts and assurances of property.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Secretary to Government,*
*Law Department.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

# PART IV

## Section 2-B

## NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS.

### NOTIFICATIONS.

(HOME DEPARTMENT).

No. H. 14192—Pol. 352-49-1, dated Bangalore, 14th March 1950.

In pursuance of clause (f) of section 4 of the Mysore Police Act, 1908, (V of 1908) and in supersession of notification No. P. 7104—Pol. 119-48-3, dated the 4th November 1948, His Highness the Maharaja is pleased to direct that the portions of the Bangalore District specified hereunder shall each be under the charge of a District Superintendent of Police for the purposes of the said Act.

| *Area.* | |
|---|---|
| City of Bangalore (exclusive of Civil Station) and Bangalore North Taluk. | District Superintendent of Police, Bangalore North. |
| Civil Station of Bangalore and Bangalore South Taluk. | District Superintendent of Police, Bangalore South Taluk. |
| Taluks of Dodballapur, Nelamangala, Hoskote, Devanahalli, Anekal, Kankanahalli, Ramanagaram, Chennapatna and Magadi. | District Superintendent of Police, Bangalore District. |

By Order of the Rajpramukh,
His Highness the Maharaja,
K. SRINIVASAN,
*Chief Secretary to Government.*

No. S.R. 3892-93—E.D. 35-48-15, dated Bangalore, the 2nd March 1950.

In exercise of the powers conferred by Sections 16, 17 and 18 of the Matches (Excise Duty) Act, 1934, (Act III of 1934), His Highness the Maharaja Rajpramukh of Mysore is pleased to order the following further amendments to the Mysore Matches (Excise Duty) Rules, 1934

and to the Mysore Matches (Excise Duty) Supplementary Rules, 1939, namely :—

A. In the Mysore Matches (Excise Duty) Rules, 1934 :—

1. For sub-rule (1) of Rule 38 of the said Rules, the following sub-rule shall be substituted, namely ;

"(1) All matches issued for home consumption from a manufactory shall be contained in boxes or booklets and the number of matches contained in each such box or booklet shall be either *forty* or *sixty*".

2. For Rule 40 of the said Rules, the following Rule be substituted namely :—

"40. (1) The banderols to be affixed to boxes or booklets of matches shall be issued from Government Treasuries and they shall be of the class appropriate to the class of boxes or booklets of matches to which they are to be affixed.

(2) A licensee claiming assessment of the matches produced at his factory at the preferential rates of duties provided in the schedule of rates of duty in Section 4 of the Matches (Excise Duty) Act, 1934, (III of 1934), for factories whose daily output does not exceed hundred gross of boxes per day, or for factories whose output does not exceed five lakhs gross of boxes per year, but exceeds hundred gross of boxes per day, shall at the time of purchasing the banderols present to the Treasury Officer, a certificate from the Deputy Commissioner in whose jurisdiction the factory is situated, stating the output of the factory and that the licensee is entitled to the preferential rates specified in the certificate.

(3) In the case of a factory whose daily output does not exceed hundred gross of boxes per day, a certificate granted under sub-rule (2) shall not be valid for more than three months from the date of issue, and may be cancelled at any earlier time, if it appears to the Deputy Commissioner that the daily output of the factory to which it relates, exceeds such limit.

(4) In the case of a factory whose output does not exceed five lakhs gross of boxes per year but exceeds hundred gross boxes per day, the certificate shall be valid only up to the end of the year for which it has been issued, and shall be cancelled at any earlier time, during such

year, if up to such time, the actual output out of the factory from the commencement of the year has exceeded five lakhs gross of boxes.

(5) The Treasury Officer shall on presentation of a certificate prescribed in sub-rule (2) issue to the licensee, banderols of the distinctive colour provided for the particular scale of factory output specified in the certificate ".

III. For Rule 41 of the said Rules, the following rule shall be substituted, namely :—

" 41. Every box or booklet of matches, and where such boxes or booklets are issued in packets, each box or booklet of a packet shall bear a banderol of the appropriate class according to the number of matches in each box or booklet ".

IV. After Rule 44 (A) of the said Rules, the following rule shall be inserted namely :—

44 B. (1) Every owner of a manufactory shall also print on the manufactory's label covering a box or booklet, the retail price of the box or booklet of matches on which such label is affixed.

(2) Any owner of a manufactory who contravenes this rule shall be punishable with imprisonment which may extend to one month or with fine which may extend to five hundred rupees or with both such imprisonment and such fine.

5. Chapter VII of the said Rules shall be omitted.

B. In the Mysore Matches (Excise Duty) Supplementary Rules, 1939 :—

1. In Rule 15, of the said Rules, the figures " 1 ", " 2 ", " 8 ", " 12 ", " 20 " and " 80 " wherever they occur shall be omitted.

2. In Rule 22 of the said Rules, for the second para the following para shall be substituted namely :—

" Cases or packets containing boxes or booklets of matches shall be distinguished by distinct marks to indicate whether they contain 40's, 60's or other kinds ".

3. In forms ME3 and ME4 of the schedule to the said Rules, for the words and figures "Class" 1 2 3 the words and figures "Class 40's, 60's, other kinds" shall be substituted.

By Order of His Highness the Maharaja,

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No. S.R. 4069-70—E.D. 38-49-4, dated Bangalore, 16th March 1950.

In exercise of the powers conferred by Section 13 of the Tobacco (Excise Duty) Act, 1943, (Act No. XVII of 1943), His Highness the Maharaja of Mysore is pleased to direct that the following further amendments shall be made in the Mysore Tobacco (Excise Duty) Rules, 1943 *viz.*,—

In the said Rules the existing Rule 79 shall be renumbered as 79A and the following Rule shall be inserted as Rule 79 after Rule 78.—

"*Refund of duty on goods returned to Factory*:—

(1) The Collector may grant refund of the duty paid on manufactured exciseable goods issued for home consumption from a factory which are returned to it for being remade, refined, reconditioned, or subjected to any other similar process in the factory;

Provided that—

(*i*) the goods are returned to the factory within one year of the date of payment of duty;

(*ii*) at least 48 hours' notice is given to the proper officer before the goods are received into the factory;

(*iii*) the goods are presented before they are taken into stock to the proper officer for inspection and if necessary, for taking samples;

(*iv*) the goods are identified to the satisfaction of the Collector;

(*v*) the goods, as originally issued from the factory, are not found to have been tampered with in any way, and the smallest packages meant for retail sale are intact and unopened;

(*vi*) the value of the goods at the time of their return to the factory is in the opinion of the Collector not less than the amount of duty originally paid upon them at the time of their clearance from the factory;

(*vii*) the amount of refund payable on the goods is not less than Rupees one hundred; and

(*viii*) a detailed account of the returned goods, and the processes to which they are subjected after their return to the factory is kept in the factory records.

Provided further that no refund shall be admissible in respect of the duty paid—

(*a*) on goods which are disposed of in any manner other than for production of goods of the same class;

(*b*) on the unmanufactured tobacco from which cigars, cheroots and cigarettes so returned to the factory have been produced.

(2) No refund under sub-rule (i) shall be paid until the processes mentioned therein have been completed and an account under clause (viii) of the first proviso thereof has been rendered to the satisfaction of the Collector within six months of the return of the goods to the factory."

By Order of His Highness the Maharaja,

SYED ABDUL ALEEM,

*Secretary to Government,*

*Revenue Department.*

No. M. 15089—G. M. 36-49-4 dated Bangalore, the 14—16th March 1950.

In exercise of the powers conferred by Section 7 of the Indian Christian Marriage Act, 1872, as in force in Mysore, and in modification of Notification No. M. 21517—G. M. 35-48-6, dated 8th June 1949, Sri Kora Chandy, B.A., residing at 23, Davis Road, Richards Town, Bangalore, being a Christian, is appointed as Marriage Registrar for the Bangalore District.

By Order of His Highness the Maharaja,

No. T. 7201—R. T. 1-49-33, dated Bangalore, 16th March 1950.

In exercise of the powers conferred by Section 83 of Mysore Motor Vehicles and Road Traffic Act, 1944, the Government of Mysore are pleased to exempt motor car No. My. 9340 Z. belonging to the Swamiji of Sri Murugha Rajendra Mutt of Anandapur, Shimoga District, from payment of taxes leviable in Mysore under the said Act.

By Order of His Highness the Maharaja,

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No. L. 10005—C.M. 57-49-15, dated Bangalore, the 22nd March 1950.

In exercise of the powers conferred by clause (*c*) of Section 438 of the City of Bangalore Municipal Corporation Act, 1949 (Mysore Act No. LXIX of 1949) read with section 21 of General Clauses Act, 1899, and in modification of Notification No. L. 5480—C.M. 49-49-15, dated 7th December 1949, the Rajpramukh of Mysore His Highness the Maharaja is pleased to fix the 31st day of May 1950, as the date on which the term of office of the Mayor, Deputy Mayor, Councillors and Members of the Standing Committees referred to in clauses (*a*) and (*b*) of the said section shall expire.

A. C. NIRVANI GOWDA,

*Secretary to Government,*
*Local Self-Government Department.*

No. A. F. 9261—Mart. 10-49-4, dated Bangalore, 20th March 1950.

In exercise of the powers conferred by Section 17 of the Mysore Agricultural Produce Markets Act, 1939 (Act No. XVI of 1939), and in modification of Notification No. A. F. 3793—Mart. 10-49-1, dated 22nd November 1949, the Government of Mysore are pleased to direct that no person shall within a distance of ten miles around the Tiptur Town Municipal limits, except with the sanction in writing of the Government expressed over the signature of a Secretary to Government and subject to such conditions as may be imposed in such sanction set up, establish or continue or allow to be continued any market for the

purpose of the purchase and sale of agricultural produce notified in Notification No. A. F. 4845—Mart. 14-46-9, dated 16th April 1948.

By Order of His Highness the Maharaja,

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No A. F. 9262—Mart. 26-49-2, dated Bangalore, 20th March 1950.

In exercise of the powers conferred by Section 17 of the Mysore Agricultural Produce Markets Act, 1939, (Act No. XVI of 1939), the Government of Mysore are pleased to direct, that no person shall, within a distance of eight miles around the Mysore City Municipal limits, except with the sanction in writing of the Government, expressed over the signature of a Secretary to Government and subject to such conditions as may be imposed in such sanction set up, establish or continue or allow to be continued any market for the purpose of the purchase and sale of agricultural produce notified in Notification No. A. F. 6105—Mart. 26-48-3, dated 29th March—5th April 1949.

By Order of His Highness the Maharaja,

A. S. KHALEEL,
*Secretary to Government,*
*Food and Agricultural Departments.*

No. L. S. 3457—Lw. 58-49-14, dated Bangalore, 15th March 1950.

In exercise of the powers conferred by clause (b) of Sub-Section (1) of Section 6 of the Mysore Minimum Wages Act, 1949, (Act No. XXIX of 1949), the Rajpramukh of Mysore, His Highness the Maharaja is pleased to publish the following proposals, regarding the fixation of the minimum rates of wages and minimum work loads in respect of employment in the Kolar Brickmaking Company, Kolar Gold Field for the information of persons likely to be affected thereby.

Notice is hereby given that the proposals will be taken into consideration after 15th May 1950.

Objections, if any, to the proposals may be forwarded to the Legal Remembrancer and Secretary to Government, Law Department, Bangalore, so as to reach him

before that date. Objections, received after the said date will not be considered.

*Proposals.*

It is proposed to fix minimum rates of wages and minimum work loads in respect of employment in the Kolar Brickmaking Company, Kolar Gold Field on the basis of the recommendations contained in the report of the Committee appointed to enquire and advise Government regarding fixation of minimum wages and minimum work loads in respect of employment in Kolar Gold Field Mining and Metallurgical. Operations, published in notification No. L. S. 3455—Lw. 58-49-13, dated 15th March 1950 in the *Mysore Gazette.*

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Legal Remembrancer and Secretary to Government, Law Department.*

No. W. 1202—dated Bangalore, the 6th March 1950.

In exercise of the powers conferred by sub-clause (1) of clause 2 of the Mysore House Rent and Accommodation Control Order, 1948, and in supersession of notification No. W. 1155 dated the 22nd April 1949, His Highness the Maharaja of Mysore, is pleased to confer the powers of "Controller" under the said Order, on the following officers in respect of the classes of cases noted against them :—

| | |
|---|---|
| (1) Sri Janab Syed Abdul Gani, Accounts Assistant to the Deputy Commissioner, Mysore District, Mysore. | All classes of cases under the said Order except those under clause 3 arising in,— (1) the whole of the Mysore District other than Mysore City and (2) the areas of Devaraj Mohalla, Krishnaraja Mohalla, Chamaraja Mohalla, Kille (Fort) Mohalla and Vani Vilas Mohalla in Mysore City. |
| (2) Sri H. G. Vijayaraghava Reddy, Personal Assistant to the Deputy Commissioner, Mysore District, Mysore. | All classes of cases under the said Order except those under clause 3 arising in the areas of Lashkar Mohalla, Mandy Mohalla, Narasimharaja Mohalla and Nazarbad Mohalla of Mysore City. |

All proceedings under the said Order in respect of the classes of cases within the jurisdiction of the Personal Assistant to the Deputy Commissioner, Mysore District, and pending on the file of the Accounts Assistant to the Deputy Commissioner, Mysore District, on the date of this notification shall be transferred to the file of the Personal Assistant to the Deputy Commissioner, Mysore District.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Secretary to Government,*
*Law Department.*

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# The Mysore Gazette

(PUBLISHED BY AUTHORITY)

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## PART IV

### Section 1-A

### BILLS INTRODUCED IN THE CENTRAL LEGISLATURE WHICH IF ENACTED WILL APPLY TO MYSORE AND THE REPORTS OF SELECT COMMITTEES, IF ANY, THEREON.

NOTIFICATION

No. L. D. 1320—Legis. 30-49-7, Bangalore, Dated 10th March 1950.

Ordered that the accompanying Preventive Detention Bill, 1950 (No. 12 of 1950) published in the Gazette of India, dated the 24th February 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Legal Remembrancer and*
*Secretary to Government,*
*Law Department.*

PARLIAMENT OF INDIA

## NOTIFICATION

*New Delhi, the 24th February 1950.*

**No. F. 120-I—50-L.**—Under Rule 55 of the Rules of Procedure and Conduct of Business in Parliament, the Speaker has been pleased to order the publication in the *Gazette of India* of the following Bill, together with the Statement of Objects and Reasons relating thereto, and the Bill and the Statement of Objects and Reasons are accordingly published for general information :—

### BILL No. 12 OF 1950.

*A Bill to provide for preventive detention in certain cases and matters connected therewith.*

BE it enacted by Parliament as follows :—

1. **Short title, extent and duration.**—This Act may be called the Preventive Detention Act, 1950.

(2) It extends to the whole of India :

Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to preventive detention for reasons connected with defence, foreign affairs or the security of India.

(3) It shall cease to have effect on the 1st day of April, 1951, save as respects things done or omitted to be done before that date.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(*a*) "State Government" means, in relation to a Part C State, the Chief Commissioner of the State ; and

(*b*) "detention order" means an order made under section 3.

3. **Power to make orders detaining certain persons.**—(1) The Central Government or the State Government may—

(*a*) if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to—

(i) the defence of India, the relations of India with foreign powers, or the security of India, or

(ii) the security of the State or the maintenance of public order, or

(iii) the maintenance of supplies and services essential to the community, or

(*b*) if satisfied with respect to any person who is a foreigner within the meaning of the Foreigners Act, 1946 (XXXI of 1946), that with a view to regulating his continued presence in India or with a view to making arrangements for his expulsion from India, it is necessary so to do,

make an order directing that such person be detained.

(2) Any District Magistrate or Sub-Divisional Magistrate, or, in a presidency-town, the Commissioner of Police, may, if satisfied as provided in sub-clauses (*ii*) and (*iii*) of clause (*a*) of sub-section (1), exercise the power conferred by the said sub-section.

(3) When any order is made under this section by a District Magistrate, Sub-Divisional Magistrate or Commissioner of Police, he shall forthwith report the fact to the State Government to which he is subordinate together with the grounds on which the order has been made and such other particulars as in his opinion have a bearing on the necessity for the order.

4. **Powers to regulate place and conditions of detention.**—So long as a detention order is in force in respect of any person, he shall be liable to be removed to, and detained in, such place and under such conditions, including conditions as to maintenance, discipline, and punishment for branches of discipline, as the Central Government or, as the case may be, the State Government, may from time to time by general or special order specify.

5. **Detention order not to be invalid by reason of place of detention.**—No detention order made by an officer mentioned in sub-section (2) of section 3 shall be deemed to be invalid merely by reason that the place of detention specified in the order is situate outside the limits of the territorial jurisdiction of such officer.

**6. Powers in relation to absconding persons.**—If the Central Government or the State Government or an officer specified in sub-section (2) of section 3, as the case may be, has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, that Government or officer may—

(*a*) make a report in writing of the fact to a Presidency Magistrate or a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 87, 88 and 89 of the Code of Criminal Procedure, 1898 (Act V of 1898), shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate;

(*b*) by order notified in the Official Gazette direct the said person to appear before such officer, at such place and within such period as may be specified in the order; and if the said person fails to comply with such direction he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year or with fine or with both.

**7. Grounds of order of detention to be disclosed to persons affected by the order.**—(1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, communicate to him the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order, in a case where such order has been made by the Central Government, to that Government, and in a case where it has been made by a State Government or an officer subordinate thereto, to the State Government.

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

**8. Constitution of Advisory Board.**—(1) The Central Government and each State Government shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Act.

(2) Every such Board shall consist of two persons who are, or have been, or are qualified to be appointed as, Judges of a High Court, and such persons shall be appointed by the Central Government or the State Government, as the case may be.

**9. Reference to Advisory Boards.**—In every case where a detention order has been made under sub-clause (*iii*) of clause (*a*), or clause (*b*), of sub-section (1) of section 3, the Government making the order, or if the order has been made by an officer specified in sub-section (2) of section 3, the State Government to which such officer is subordinate, shall, within six weeks from the date of the order place before an Advisory Board constituted by it under section 8 the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in case where the order has been made by an officer, also the report made by such officer under sub-section (3) of section 3.

**10. Procedure of Advisory Board.**—(1) The Advisory Board shall, after considering the materials placed before it and, if necessary, after calling for such further information from the Central Government or the State Government or from the person concerned, as it may deem necessary, submit its report to the Central Government or the State Government, as the case may be, within ten weeks from the date of the detention order.

(2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

(3) Nothing in this section shall entitle any person against whom a detention order has been made to attend in person or to appear by any legal representative in any matter connected with the reference to the Advisory Board, and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.

**11. Confirmation of detention order.**—In any case where the Advisory Board has reported that there is in its opinion sufficient cause for the detention of the person concerned, the Central Government or the State Government, as the case may be, may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit.

**12. Duration of detention in certain cases.**—(1) Any person detained in any of the following classes of cases or under any of the following circumstances may be detained without obtaining the opinion of an Advisory Board for a period longer than three months,

but not exceeding one year from the date of the detention order, namely, where such person has been detained with a view to preventing him from acting in any manner prejudicial to—

(*a*) the defence of India, relations of India with foreign powers or the security of India ; or.

(*b*) the security of a State or the maintenance of public order.

(2) The case of every person detained under a detention order to which the provisions of sub-section (1) apply shall, within a period of six months from the date of the order, be reviewed where the order was made by the Central Government or a State Government, by such Government, and where the order was made by any officer specified in sub-section (2) of section 3, by the State Government to which such officer is subordinate, in consultation with a judicial officer not below the rank of a District Judge nominated in that behalf by the Central Government or the State Government, as the case may be.

**13. Revocation of detention orders.**—(1) Without prejudice to the provisions of section 21 of the General Clauses Act, 1897 (X of 1897), a detention order may at any time be revoked or modified—

(*a*) notwithstanding that the order has been made by an officer mentioned in sub-section (2) of section 3, by the State Government to which that officer is subordinate or by the Central Government ;

(*b*) notwithstanding that the order has been made by a State Government, by the Central Government.

(2) The revocation of a detention order shall not bar the making of a fresh detention order under section 3 against the same person.

**14. Disclosure of grounds of detention, etc.**—(1) No court shall, except for the purposes of a prosecution for an offence punishable under sub-section (2), allow any statement to be made, or any evidence to be given, before it of the substance of any communication made under section 7 of the grounds on which a detention order has been made against any person or of any representation made by him against such order ; and notwithstanding anything contained in any other law, no court shall be entitled to require any public officer to produce before it, or to disclose the substance of, any such communication or representation made, or the proceedings of an

Advisory Board or that part of the report of an Advisory Board which is confidential.

(2) It shall be an offence punishable with imprisonment for a term which may extend to one year, or with fine, or with both, for any person to disclose or publish without the previous authorisation of the Central Government or the State Government, as the case may be, any contents or matter purporting to be contents of any such communication or representation as is referred to in sub-section (1):

Provided that nothing in this sub-section shall apply to a disclosure made to his legal adviser by a person who is the subject of a detention order.

**15. Protection of action taken under the Act.**—No suit prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of this Act.

## STATEMENT OF OBJECTS AND REASONS.

There has been a crop of litigation in various States since the 26th January, 1950, challenging orders of detention passed under various State enactments dealing with public safety. In a recent judgment, the Bihar High Court has held that the provisions of the Bihar Act dealing with preventive detention are void as they are not in accordance with the Constitution. Similar points are being raised before other High Courts and it is considered necessary that the matter should be set at rest by Central Legislation.

2. The object of the Bill is to provide for detention with a view to preventing persons from acting in a manner prejudicial to the Defence of India, the relations of India with foreign powers, the security of India or a State, the maintenance of public order or the maintenance of supplies and services essential to the community. Provision is made, as enjoined by the Constitution, for the setting up of Advisory Boards. Provision has also been made under Article 22 (7) (*a*) of the Constitution for cases in which persons may be detained for longer than three months without obtaining the opinion of an Advisory Board.

NEW DELHI; V. J. PATEL.

*24th February, 1950.*

M. N. KAUL,

*Secretary.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

# PART IV.

## Section 1-B

## ACTS OF PARLIAMENT AND ORDINANCES OF THE PRESIDENT WHICH APPLY TO MYSORE.

## NOTIFICATIONS.

No. L.D. 1379—Legis. 18-49-24, Bangalore, dated 16th March 1950.

Ordered that the accompanying Immigrants (Expulsion from Assam) Act, 1950 (X of 1950) published in the *Gazette of India*, dated the 7th March 1950, be republished in the *Mysore Gazette*, for general information.

By order of His Highness the Maharaja.

B. S. PUTTASWAMY,

*Legal Remembrancer and Secretary to Government, Law Department.*

Received Assent on 1st March 1950.

GOVERNMENT OF INDIA.

## MINISTRY OF LAW.

## THE IMMIGRANTS (EXPULSION FROM ASSAM) ACT, 1950 (X of 1950).

An

ACT

*to provide for the expulsion of certain immigrants from Assam.*

BE it enacted by Parliament as follows :—

1. **Short title and extent.**—(*1*) This Act may be called the Immigrants (Expulsion from Assam) Act, 1950.

(*2*) It extends to the whole of India.

**2. Power to order expulsion of certain immigrants.**—If the Central Government is of opinion that any person or class of persons, having been ordinarily resident in any place outside India, has or have, whether before or after the commencement of this Act, come into Assam and that the stay of such person or class of persons in Assam is detrimental to the interests of the general public of India or of any section thereof or of any Scheduled Tribe in Assam, the Central Government may by order—

(*a*) direct such person or class of persons to remove himself or themselves from India or Assam within such time and by such route as may be specified in the order; and

(*b*) give such further directions in regard to his or their removal from India or Assam as it may consider necessary or expedient:

Provided that nothing in this section shall apply to any person who on account of civil disturbances or the fear of such disturbances in any area now forming part of Pakistan has been displaced from or has left his place of residence in such area and who has been subsequently residing in Assam.

**3. Delegation of power.**—The Central Government may, by notification in the official Gazette, direct that the powers and duties conferred or imposed on it by section 2 shall, subject to such conditions, if any, as may be specified in the notification, be exercised or discharged also by—

(*a*) any officer subordinate to the Central Government;

(*b*) the Government of Assam or any officer subordinate to that Government.

**4. Power to give effect to orders, etc.**—Any authority empowered by or in pursuance of the provisions of this Act to exercise any power may, in addition to any other action expressly provided for in this Act, take or cause to be taken such steps, and use or cause to be used such force, as may in its opinion be reasonably necessary for the effective exercise of such power.

**5. Penalties.**—Any person who—

(*a*) contravenes or attempts to contravene or abets the contravention of any order made under section 2, or

(*b*) fails to comply with any direction given by any such order, or

(*c*) harbours any person who has contravened any order made under section 2 or has failed to comply with any direction given by any such order,

shall be punishable with imprisonment which may extend to three years and shall also be liable to fine.

6. **Protection to persons acting under this Act.**—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

7. **Repeal and saving.**—(*1*) The Undesirable Immigrants (Expulsion from Assam) Ordinance, 1950 (I of 1950) is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

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No. L.D. 1500—Legis. 18-49-27, dated Bangalore, 20th March 1950.

Ordered that the accompanying Judicial Commissioners' Courts (Declaration as High Courts) Act, 1950 (XV of 1950), published in the *Gazette of India*, dated the 11th March 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Legal Remembrancer and*
*Secretary to Government,*
*Law Department.*

Received Assent on 10-3-1950.

GOVERNMENT OF INDIA

## MINISTER OF LAW

ACT No. XV of 1950.

# THE JUDICIAL COMMISSIONERS' COURTS (DECLARATION AS HIGH COURTS) ACT, 1950.

AN

ACT

*to declare the Judicial Commissioners' Courts in Part C States to be High Courts for certain purposes of the Constitution.*

BE it enacted by Parliament as follows :—

**1. Short title and commencement.**—(*1*) This Act may be called the Judicial Commissioners' Courts (Declaration as High Courts) Act, 1950.

(*2*) It shall be deemed to have come into force on the 26th day of January 1950.

**2. Definition.**—In this Act, "article" means an article of the Constitution.

**3. Declaration of certain Courts as High Courts for certain purposes.**—Every court in a Part C State known, at the commencement of this Act, as the Court of the Judicial Commissioner for that State (hereinafter referred to as a Judicial Commissioner's Court), is hereby declared to be a High Court for the purposes of articles 132, 133 and 134.

**4. Appeals to the Supreme Court not to be barred on ground of judgment, etc., being of a single Judge.**—An appeal shall lie to the Supreme Court under the provisions of article 133 from any judgment, decree or final order of a Judicial Commissioner's Court notwithstanding that such judgment, decree or final order is that of a single Judge.

**5. Appeals to lie to the Supreme Court from judgment, decree, etc., whether passed or made before or after the commencement of the Act.**—Subject to any rules made under article 145 or any other law as to the

time within which appeals to the Supreme Court are to be entered, an appeal shall lie to that Court from a judgment, decree or final order of a Judicial Commissioner's Court under the provisions of article 132 or article 133, or from a judgment, final order or sentence of such Court under the provisions of article 134 whether such judgment, decree, final order or sentence, as the case may be, was passed or made before or after the commencement of this Act.

**Exceptions and modifications subject to which the provisions of Chapter V of Part VI of the Constitution apply to the Judicial Commissioners' Courts.**—The provisions of Chapter V of Part VI of the Constitution shall in their application to a Judicial Commissioner's Court have effect subject to the following exceptions and modifications, namely :—

(*a*) the provisions of articles 216, 217, 218, 220, 221, 222, 223, 224, 230, 231 and 232 shall not apply ;

(*b*) references in article 219, in the proviso to clause (3) of article 227 and in article 229 to the Governor shall be construed as references to the Chief Commissioner of the State in relation to which that Court exercises jurisdiction.

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Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

# PART IV

## Section 2-B

## NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS.

## NOTIFICATIONS.

### Home Department.

No. H. 14821 Pol—193-49-12 dated, Bangalore the 21st March 1950.

In exercise of the powers conferred by Clause (b) of Section 1 of the suppression of Immoral Traffic Act of 1936 (Act VIII of 1936), His Highness the Maharaja is pleased to apply all the provisions of the said Act to the villages of Kadugondanahalli, Hebbal and Devarajeevanahalli of Bangalore North Taluk, Bangalore District from the 1st day of April 1950.

By Order of His Highness the Maharaja,

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### Home Department.

No. H. 14824—Pol. 193-49-11, dated Bangalore the 21st March 1950.

In exercise of the powers conferred by Section 56 of the Mysore Police Act, 1908, (V of 1908), His Highness the Maharaja of Mysore is pleased to extend the provisions of the said Section to Devarajeevanahalli, Bangalore North Taluk, Bangalore District from the 1st day of April 1950.

By Order of His Highness the Maharaja,

K. SRINIVASAN,
*Chief Secretary to Government.*

No. S.R. 3892-93—E.D. 35-48-15, dated Bangalore, the 2nd March 1950.

In exercise of the powers conferred by Sections 16, 17 and 18 of the Matches (Excise Duty) Act, 1934, (Act III of 1934), His Highness the Maharaja Rajpramukh of Mysore is pleased to order the following further amendments to the Mysore Matches (Excise Duty) Rules, 1934 and to the Mysore Matches (Excise Duty) Supplementary Rules, 1939, namely :—

A. In the Mysore Matches (Excise Duty) Rules, 1934 :—

1. For sub-rule (1) of Rule 38 of the said Rules, the following sub-rule shall be substituted, namely ;

"(1) All matches issued for home consumption from a manufactory shall be contained in boxes or booklets and the number of matches contained in each such box or booklet shall be either *forty* or *sixty*".

2. For Rule 40 of the said Rules, the following Rule be substituted namely :—

"40. (1) The banderols to be affixed to boxes or booklets of matches shall be issued from Government Treasuries and they shall be of the class appropriate to the class of boxes or booklets of matches to which they are to be affixed.

(2) A licensee claiming assessment of the matches produced at his factory at the preferential rates of duties provided in the schedule of rates of duty in Section 4 of the Matches (Excise Duty) Act, 1934, (III of 1934), for factories whose daily output does not exceed hundred gross of boxes per day, or for factories whose output does not exceed five lakhs gross of boxes per year, but exceeds hundred gross of boxes per day, shall at the time of purchasing the banderols present to the Treasury Officer, a certificate from the Deputy Commissioner in whose jurisdiction the factory is situated, stating the output of the factory and that the licensee is entitled to the preferential rates specified in the certificate.

(3) In the case of a factory whose daily output does not exceed hundred gross of boxes per day, a certificate granted under sub-rule (2) shall not be valid for more than three months from the date of issue, and may be

cancelled at any earlier time, if it appears to the Deputy Commissioner that the daily output of the factory to which it relates, exceeds such limit.

(4) In the case of a factory whose output does not exceed five lakhs gross of boxes per year but exceeds hundred gross boxes per day, the certificate shall be valid only up to the end of the year for which it has been issued, and shall be cancelled at any earlier time, during such year, if up to such time, the actual output out of the factory from the commencement of the year has exceeded five lakhs gross of boxes.

(5) The Treasury Officer shall on presentation of a certificate prescribed in sub-rule (2) issue to the licensee, banderols of the distinctive colour provided for the particular scale of factory output specified in the certificate ".

III. For Rule 41 of the said Rules, the following rule shall be substituted, namely :—

" 41. Every box or booklet of matches, and where such boxes or booklets are issued in packets, each box or booklet of a packet shall bear a banderol of the appropriate class according to the number of matches in each box or booklet ".

IV. After Rule 44 (A) of the said Rules, the following rule shall be inserted namely :—

44 B. (1) Every owner of a manufactory shall also print on the manufactory's label covering a box or booklet, the retail price of the box or booklet of matches on which such label is affixed.

(2) Any owner of a manufactory who contravenes this rule shall be punishable with imprisonment which may extend to one month or with fine which may extend to five hundred rupees or with both such imprisonment and such fine.

5. Chapter VII of the said Rules shall be omitted.

B. In the Mysore Matches (Excise Duty) Supplementary Rules, 1939 :—

1. In Rule 15, of the said Rules, the figures " 1 ", " 2 ", " 8 ", " 12 ", " 20 " and " 80 " wherever they occur shall be omitted.

2. In Rule 22 of the said Rules, for the second para the following para shall be substituted namely :—

"Cases or packets containing boxes or booklets of matches shall be distinguished by distinct marks to indicate whether they contain 40's, 60's or other kinds".

3. In forms ME3 and ME4 of the schedule to the said Rules, for the words and figures "Class" 1 2 3 the words and figures "Class 40's, 60's, other kinds" shall be substituted.

By Order of His Highness the Maharaja,

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No. S.R. 4069-70—E.D. 38-49-4, dated Bangalore, 16th March 1950.

In exercise of the powers conferred by Section 13 of the Tobacco (Excise Duty) Act, 1943, (Act No. XVII of 1943), His Highness the Maharaja of Mysore is pleased to direct that the following further amendments shall be made in the Mysore Tobacco (Excise Duty) Rules, 1943 *viz.*,—

In the said Rules the existing Rule 79 shall be renumbered as 79A and the following Rule shall be inserted as Rule 79 after Rule 78.—

"*Refund of duty on goods returned to Factory*:—

(1) The Collector may grant refund of the duty paid on manufactured exciseable goods issued for home consumption from a factory which are returned to it for being remade, refined, reconditioned, or subjected to any other similar process in the factory;

Provided that—

(*i*) the goods are returned to the factory within one year of the date of payment of duty;

(*ii*) at least 48 hours' notice is given to the proper officer before the goods are received into the factory;

(*iii*) the goods are presented before they are taken into stock to the proper officer for inspection and if necessary, for taking samples;

(*iv*) the goods are identified to the satisfaction of the Collector;

(*v*) the goods, as originally issued from the factory, are not found to have been tampered with in any way, and the smallest packages meant for retail sale are intact and unopened;

(*vi*) the value of the goods at the time of their return to the factory is in the opinion of the Collector not less than the amount of duty originally paid upon them at the time of their clearance from the factory;

(*vii*) the amount of refund payable on the goods is not less than Rupees one hundred; and

(*viii*) a detailed account of the returned goods, and the processes to which they are subjected after their return to the factory is kept in the factory records.

Provided further that no refund shall be admissible in respect of the duty paid—

(*a*) on goods which are disposed of in any manner other than for production of goods of the same class;

(*b*) on the unmanufactured tobacco from which cigars, cheroots and cigarettes so returned to the factory have been produced.

(2) No refund under sub-rule (i) shall be paid until the processes mentioned therein have been completed and an account under clause (viii) of the first proviso thereof has been rendered to the satisfaction of the Collector within six months of the return of the goods to the factory."

By Order of His Highness the Maharaja,

SYED ABDUL ALEEM,

*Secretary to Government,*
*Revenue Department.*

No. C. 1508—Co. 23-49-39 dated, Bangalore the 21st March 1950.

In exercise of the powers conferred by Section 3 and clause (a) of sub-section (1) of Section 4 of the Mysore Drugs (Control) (Emergency) Act, 1949 (Act No. LXVIII of 1949) His Highness the Maharaja is pleased to direct that the following further amendments shall be made in the schedule to Notification No. C. 3130—Co. dated the 3rd October 1949, namely :—

In respect of the drugs in the said schedule specified in column 1 hereunder, which are manufactured by Parke Davis & Company, Imperial Chemical Industries (India) Limited and Eli Lilly and Company of India, for the prices specified in column 2 of the said schedule, the prices specified in column 2 hereunder shall be substituted :—

**(1) Parke Davis & Company.**

| | Rs. |
|---|---|
| Penicillin S-R 1 dose ... ... | 6 0 0 |
| Dihydrostreptomycin 1 gm. ... ... | 5 8 0 |

**(2) Imperial Chemical Industries (India) Limited.**

*Penicillin Crystalline (White)—'Avlon' brand.*
(Available either as the Potassium or Sodium Salt)

| | Rs. |
|---|---|
| Vials of 0·1 mega unit singly, and in containers of 10 vials—per vial ... ... | 1 2 0 |
| Vials of 0·2 mega unit singly, and in containers of 10 vials—per vial ... ... | 1 8 0 |
| Vials of 0·5 mega unit singly, and in containers of 10 vials—per vial .. ... | 2 11 0 |
| Vials of 1·0 mega unit singly, and in containers of 10 vials—per vial ... ... | 4 11 0 |

**(3) Eli Lilly and Company of India. Inc.**

| | Rs. |
|---|---|
| Dihydrostreptomycin Sulphate 20 c. c. rubber stoppered ampoules, per ampoule ... | 6 2 0 |

By Order of His Highness the Maharaja,

No. C. 1536—Co. 63-49-2, Dated Bangalore, the 23rd March 1950.

In exercise of the powers conferred by sub-rule (2) of Rule 81 of the Defence of India Rules as applied to Mysore and continued by the Supplies, Services and Miscellaneous Provisions (Temporary Powers) Act, 1947, (XX of 1947), His Highness the Maharaja is pleased to direct that the following further amendments shall be made to the Paper Control (Distribution) Order, 1944, namely:—

I. In the said Order, in Clause 6, the words " held in stock, manufactured " shall beomitted.

II. For Form II annexed to the said Order, the following form shall be substituted, namely—

FORM II.

PAPER CONTROL (DISTRIBUTION) ORDER, 1944.

*(Clause 6)*

*To be submitted by manufacturers of paper Return for the month of 19*

Name of the manufacturer.....

Full address.....

I/We declare that the following is true account of the paper despatched, distributed, sold or otherwise disposed of by me/us during the month of.....19.

A—Particulars relating to the quantity of paper despatched, distributed, sold or otherwise disposed of through authorised distributors or agents for the use of non-Government consumers.

| Name and full address of the authorised distributor or agent. | Territory assigned to the authorised distributor or agent | Quantity of paper distributed, sold or otherwise disposed of for the use of non-Government consumers | | | Total |
|---|---|---|---|---|---|
| | | Variety of paper | Variety of paper | (*) | |
| | | Tons | Tons | Tons | Tons |
| | Total ... | ... | ... | ... | ... |

B.—Particulars of paper distributed, sold or otherwise disposed of for the use of non-Government consumers through persons other than authorised distributors or agents.

| Name and address of the person to whom or through whom paper distributed sold or disposed of otherwise | Quantity of paper distributed, sold or otherwise disposed of | | | Total |
|---|---|---|---|---|
| | Variety of paper | Variety of paper | (*) | |
| | Tons | Tons | Tons | Tons |
| | | | | |
| Total ... | ... | ... | ... | ... |

*Note.*—The name of the variety of paper should be entered in the space left blank for this purpose. The names of authorised agents and distributors or of persons to whom or through whom paper is distributed, sold or otherwise disposed of should be arranged in each table in such a manner as to place all firms belonging to the same Province in consecutive order.

(*) Each variety of paper should be entered in a separate column in this space.

Dated.....19

.....

*Signature of manufacturer.*

By Order of His Highness the Maharaja,

A. S. KHALEEL,
*Secretary to Government,*
*Food and Agriculture Departments.*

No. E. 10581—Edn. 135-49-2, dated Bangalore, the 22nd March 1950.

In exercise of the powers conferred by Sub-Section (2) of Section 1 of the Mysore Elementary Education (Amendment) Act, 1949 (XVII of 1949), His Highness the Maharaja of Mysore is pleased to appoint the 22nd March 1950 as the date on which the said Act shall come into force in the Civil Station of Bangalore as defined in the Municipal Corporation of the City of Bangalore (Transitional Provision) Order, 1949, issued in Notification

No. L. 5319—C.M. 49-49-2, dated 2nd December 1949, under the provision of Section 437 read with Section 439 of the City of Bangalore Municipal Corporation Act, 1949.

By Order of His Highness the Maharaja,

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No. E. 10585—Edn. 135-49-3, dated Bangalore, the 22nd March 1950.

It is hereby notified that Education Cess at two annas in the rupee will be levied on the items detailed below in the Civil Station of Bangalore as defined in the Municipal Corporation of the City of Bangalore (Transitional Provisions) Order, 1949, issued in Notification No. L. 5319—C.M. 49-49-2, dated 2nd December 1949, under the provisions of Section 437 read with Section 439 of the City of Bangalore Municipal Corporation Act, 1949, with effect from 22nd March 1950, the date on which the Education Act, 1941, comes into force in the said area as per Notification No. E. 10581—Edn. 135-49-2, dated 22nd March 1950.

1. Tax on buildings and lands.
2. Taxes on vehicles and animals.
3. Profession tax or shop tax.

By Order of His Highness the Maharaja,

A. C. NIRVANI GOWDA,
*Secretary to Government,*
*Education Department.*

No. Fl. 7367—S. T. 9-49-5 dated, Bangalore the 21st March 1950.

In exercise of the powers conferred by section 25 of the Mysore Sales-tax Act, 1948 (XLVI of 1948), the Rajpramukh of Mysore, His Highness the Maharaja is hereby pleased to make the following further amendments

to the Mysore Sales-tax Rules, 1948, the same having been previously published in the *Mysore Gazette* as required by the said section namely:--

**Amendment.**

In Rule 25 of the said Rules, for the words "three months" the words "five months" shall be substituted.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Legal Remembrancer and*
*Secretary to Government,*
*Law Department.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

# PART IV

## Section 1-C.

**NOTIFICATIONS, RULES, ORDERS, Etc., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.**

## NOTIFICATION.

No. S. D. 7846-52—C. 73-49-81, dated Bangalore, 21st March 1950.

In exercise of the powers conferred by Rules 75-A, 75-B, and Rule 81 of the Defence of India Rules as applied to Mysore and continued by the Supplies, Services and Miscellaneous Provisions (Temporary Powers) Act, 1947 (XX of 1947), His Highness the Maharaja of Mysore is pleased to make the following amendment to the Articles of Food Acquisition (Harvest) Order, 1949, issued under Notification No. S.D. 4054—C. 73-49-4, dated 21st November 1949 and to direct with reference to sub-rule (1) of Rule 119 of the said Rules that notice of the amendment shall be given by the publication of the same in the official Gazette and by the issue of a Press Note summarising and explaining its provisions.

The following shall be inserted under Note (3) in Schedule III under I quality of paddy as Serial No. 15:—

"15. Bellary Sanna (grown in Bagepalli Taluk in Kolar District)."

By Order of His Highness the Maharaja,

A. S. KHALEEL,
*Secretary to Government,*
*Food and Agriculture Departments*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

120

Reg. No. M. 1175

# The Mysore Gazette

(PUBLISHED BY AUTHORITY)

(EXTRAORDINARY)

BANGALORE, TUESDAY, APRIL 4, 1950

## NOTIFICATION.

No. L.D. 6—L.A. 2-50-1, Bangalore, dated 4th April 1950.

In pursuance of sub-clause (*b*) of Clause (2) of Article 174 of the Constitution of India, I, JAYA CHAMARAJA WADIYAR, MAHARAJA OF MYSORE, hereby prorogue the session of the Mysore Legislative Assembly at the conclusion of its business on Tuesday the 4th April 1950.

JAYA CHAMARAJA WADIYAR,

*Maharaja of Mysore.*

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Legal Remembrancer and Secretary to Government, Law Department.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

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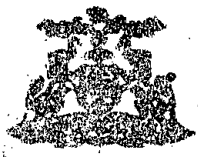
Reg. No. M. 1175



# The Mysore Gazette

(PUBLISHED BY AUTHORITY)

Vol. 85] BANGALORE THURSDAY, APRIL 6, 1950 [No. 14

## PART IV

### Section 2-B

### NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS.

### NOTIFICATIONS.

No. S.R. 4069-70—E.D. 38-49-4, dated Bangalore, 16th March 1950.

In exercise of the powers conferred by Section 13 of the Tobacco (Excise Duty) Act, 1943, (Act No. XVII of 1943), His Highness the Maharaja of Mysore is pleased to direct that the following further amendments shall be made in the Mysore Tobacco (Excise Duty) Rules, 1943 *viz.*,—

In the said Rules the existing Rule 79 shall be renumbered as 79A and the following Rule shall be inserted as Rule 79 after Rule 78.—

"*Refund of duty on goods returned to Factory*:—

(1) The Collector may grant refund of the duty paid on manufactured exciseable goods issued for home consumption from a factory which are returned to it for

being remade, refined, reconditioned, or subjected to any other similar process in the factory;

Provided that—

(*i*) the goods are returned to the factory within one year of the date of payment of duty;

(*ii*) at least 48 hours' notice is given to the proper officer before the goods are received into the factory;

(*iii*) the goods are presented before they are taken into stock to the proper officer for inspection and if necessary, for taking samples;

(*iv*) the goods are identified to the satisfaction of the Collector;

(*v*) the goods, as originally issued from the factory, are not found to have been tampered with in any way, and the smallest packages meant for retail sale are intact and unopened;

(*vi*) the value of the goods at the time of their return to the factory is in the opinion of the Collector not less than the amount of duty originally paid upon them at the time of their clearance from the factory;

(*vii*) the amount of refund payable on the goods is not less than Rupees one hundred; and

(*viii*) a detailed account of the returned goods, and the processes to which they are subjected after their return to the factory is kept in the factory records.

Provided further that no refund shall be admissible in respect of the duty paid—

(*a*) on goods which are disposed of in any manner other than for production of goods of the same class;

(*b*) on the unmanufactured tobacco from which cigars, cheroots and cigarettes so returned to the factory have been produced.

(2) No refund under sub-rule (i) shall be paid until the processes mentioned therein have been completed and

an account under clause (viii) of the first proviso thereof has been rendered to the satisfaction of the Collector within six months of the return of the goods to the factory."

By Order of His Highness the Maharaja,

---

No. S.R. 4321—E.D. 17-49-7, Dated Bangalore, 31st March 1950.

In exercise of the powers conferred by Section 13 of the Mysore Tobacco (Excise Duty) Act, 1943 (XXVI of 1943) His Highness the Maharaja of Mysore is pleased to direct that the following further amendments shall be made in the Mysore Tobacco (Excise Duty) Rules, 1943, namely:—

(*i*) Clause (ii) of rule 2 of the said Rules, after the words "specially authorised" the words "by Government by notification in the *Mysore Gazette*" had been inserted.

(*ii*) After Rule 11 of the said Rules the following rules shall be inserted, namely :—

"11-A. Rebate of duty paid on the goods specified in the table below shall be made to the extent and subject to the limitations or conditions, if any, set out in the corresponding entry in column 4 of the table if they are exported to the destinations and in the manner specified in the table and in accordance with the procedure that may be prescribed by the Government or the Collector in this behalf, and if the amount of duty paid on the goods exported, and the date of payment thereof are established to the satisfaction of the Collector :

Provided that no rebate shall be granted if—

(*a*) the goods are to be exported after two years and onwards from the date of payment of duty as shown in the excise records or within such shorter period as may be indicated in the table, or

(*b*) the amount of rebate admissible is less than five rupees.

TABLE.

| *Goods* | *Destination* | *Amount of rebate* | *Limitation and conditions* |
|---|---|---|---|
| A—BY SEA. | | | |
| *Tobacco.*— | | | |
| (*a*) Unmanufactured. | Any country outside India. | The whole | |
| (*b*) Manufactured | | | |
| 1. Cigars & Cheroots. | Do | The whole | If packed in containers to which Excise labels or banderols have not been fixed, and if any duty is paid prior to removal of goods from the factory. |
| 2. Cigarettes. | Do | The whole | Do |
| B—PARCEL POST. | | | |
| 1. *Tobacco.*— | | | |
| (*a*) Unmanufactured. | Any country outside India. | The whole | 1. If exported within six months from the date of payment of duty. |
| (*b*) Manufactured. (1) Cigars and Cheroots. (2) Cigarettes. | Do | The whole | 2. If, in the case of Cigars, cheroots and Cigarettes, they are packed in containers to which excise labels have not been affixed and if duty is paid prior to removal of the goods from the factory. |

11-B. Tobacco (manufactured or unmanufactured) may be exported, in like manner, without payment of duty, from a warehouse or a licensed factory, provided that the export is made in accordance with the procedure referred to in rule 11-A, and the owner enters into a bond in the proper form, with such surety or sufficient security, and under such conditions as the Collector approves, in a sum equal at least to the duty chargeable on the tobacco, for the due arrival thereof at the place of export and their export therefrom under customs or postal supervision, as the case may be, within such time as the Collector directs, and such bond shall not be discharged unless the goods are duly exported, to the satisfaction of

the Collector, within the time allowed for such export, or are otherwise accounted for to the satisfaction of such officer, nor until the full duty due upon any deficiency of goods, not so accounted for, has been paid.

11-C. The Collector may permit any licensed person desirous of exporting from India, in the manner provided in the foregoing rules, tobacco on which duty has not been paid, to enter into a general bond in the proper form, with such surety or sufficient security, in such amount, and under such conditions, as the Collector approves, for the export, from time to time, of such excisable goods within such time as the Collector directs ".

These amendments shall be deemed to have come into force on the 15th August 1948.

By Order of His Highness the Maharaja,

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No. S.R. 4322—E.D. 17-49-8, dated Bangalore, 31st March 1950.

In exercise of the powers conferred by Clause (ii) of rule 2 of the Mysore Tobacco (Excise Duty) Rules, 1943, His Highness the Maharaja of Mysore, is pleased to direct that the Collector of Central Excises, Madras, shall be deemed to have been authorised with effect from 15th August 1948 to exercise all the powers of a Collector under the said rules within the area of the Cigarette Factory owned by Messrs. Tobacco Manufacturers (India) Limited, situated in Bangalore.

By Order of His Highness the Maharaja,

SYED ABDUL ALEEM,

*Secretary to Government,*
*Revenue Department.*

No. D. 10113—I. & C. 271-49-1, Dated Bangalore, 27th March 1950.

In exercise of the powers conferred by Rule 6 of the Mysore Sugar Factory Sugarcane Cess Rules, 1949, the Government of Mysore are pleased to specify Rupees six per ton as the rate of Cess leviable for the year 1949 50.

By Order of His Highness the Maharaja,

R. G. REGO,

*Secretary to Government,*
*Development Department.*

No. S. D.8018—C. 73-49-87, Dated Bangalore, 28th March 1950

In exercise of the powers conferred by Rules 75-A, 75-B, and Rule 81 of the Defence of India Rules as applied to Mysore and continued by the Supplies, Services and Miscellaneous Provisions (Temporary Powers) Act 1947 (XX of 1947) His Highness the Maharaja of Mysore is pleased to direct that the following further amendment shall be made in the Articles of Food Acquisition (Harvest) Order 1949, namely :—

To sub-clause (1) of Clause 17 of the said order, issued in Notification No. S.D.-5598—C. 73-49-28, dated 3rd January 1950, the following Proviso shall be added :—

"Provided that nothing in this sub-clause shall apply to the movement or transport (1) from one non-rationed area to another non-rationed area within the State of foodgrains not exceeding ten seers in all by a *bona fide* traveller as part of his luggage for his personal consumption or for his family or (2) from one rationed area to another rationed area or to any non-rationed area within the State or *vice versa*, of foodgrains not exceeding two seers per adult and one seer per child below eight years of age for *bona fide* personal consumption".

Government further direct with reference to Rule 119 of the said Rules that notice of this amendment shall be given by publication of the same in the *Mysore Gazette*.

Clause 17 (1) after amendment reads as follows :—

"17 (1) All movement or transport of foodgrains from one place to another is prohibited except when such movement is authorised by a permit issued for the purpose by a competent authority appointed by Government.

Provided that nothing in this sub-clause shall apply to the movement or transport (1) from one non-rationed area to another non-rationed area within the State, of foodgrains not exceeding ten seers in all by a *bona fide* traveller as part of his luggage for his personal consumption or for his family or (2) from one rationed area to another rationed area or to any non-rationed area

within the State or *vice versa* of foodgrains not exceeding two seers per adult and one seer per child below eight years of age for *bona fide* personal consumption".

By Order of His Highness the Maharaja,

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No. S.D. 8057—C. 18-49-227, dated Bangalore, 29th March 1950.

In exercise of the powers conferred by sub-rule (2) of Rule 81 of the Defence of India Rules as applied to Mysore and continued by the Supplies, Services, and Miscellaneous Provisions (Temporary Powers) Act, 1947, (Act XX of 1947), His Highness the Maharaja of Mysore is pleased to make the following amendment to "The Foodgrains Import Control Order, 1949" issued under Notification No. S.D. 817—C. 193-48-2, dated 1st—2nd August 1949 and to further direct, with reference to sub-rule (1) of rule 119 of the Defence of India Rules, that notice of this order shall be given by publication in the official Gazette and by the issue of a Press Note, *viz*:—

The following shall be included in the Schedule to the Order as Item 16.—

"16. Sugar manufactured by any process, including sugar made in vacuum pan factories from cane or gur or palmyrah jaggery, as well as khandasari sugar, sugarcandy (misri), bura and powdered jaggery (Mogadum Sugar)."

By Order of His Highness the Maharaja,

A. S. KHALEEL,

*Secretary to Government,*
*Food and Agriculture Departments.*

No. M. 15725—P. H. 113-49-5, dated Bangalore, 31st March 1950.

Under Section 20 of the Mysore Prevention of Adulteration Act, IX of 1921, as amended from time to time, the Government of Mysore are pleased to make the rules issued with the Government Notification No. G. 2463—Sany. 61-30-3, dated 22nd September 1931 as

amended in Government Notification No. G. 798—P. H. 136-39-3, dated 29th July 1940 (annexed hereto) applicable to the local limits of Bhadravati Town.

By Order of His Highness the Maharaja,

A. C. NIRVANI GOWDA,

*Secretary to Government,*
*Education Department.*

## RULES UNDER THE MYSORE PREVENTION OF ADULTERATION ACT.

1. In these rules, "Act" means the Mysore Prevention of Adulteration Act, IX of 1921.

"Section" means Section of the above.

*Section 3.*—

2. The Officer to whom the local executive officer may delegate his powers shall be of the rank of a Health Officer or shall hold the diploma of Public Health. No legal proceedings under the Act shall be instituted without the permission in writing of the President or the Commissioner as the case may be.

*Section 20 (b).*—

3. The area within which the local executive officer of a Municipal Council shall exercise powers shall be the Municipal limits of the place.

*Section 20 (c).*—

4. *Cleanliness of Vessels.*—All vessels, receptacles, or utensils used for manufacturing or preparing food or containing any food intended for sale shall be cleansed with clean boiling water before and after use and shall be kept in a constant state of cleanliness. In case of food likely to be acted upon by the metal of the vessels, receptacles or utensils in which the food is manufactured, prepared or contained for purposes of sale, precautions shall be taken to prevent such metallic contamination.

*Section 20 (d).*—

5. *How notice of admixture, addition or deficiency shall be given.*—If the vendor of any article intended for

food knows that it is admixed with any foreign substance whatsoever or that any component part has been abstracted therefrom, he shall give due notice of such admixture or abstraction by means of distinct and clear labels in Kannada or in any other language likely to be read and understood by the people, affixed conspicuously on each package or receptacle containing the article. Unless the vendor of any food containing an admixture, addition or deficiency, knows of his own knowledge, that the purchaser is able to read and understand the label, he shall give the purchaser the information contained in the label by word of mouth at the time of purchase.

*Section 20 (e).*—

6. The standards of purity prescribed for milk, cream, butter and ghee are as follows :—

*Milk*—

*Cow's milk.*—(1) Where a sample of cow's milk (not being sold as skimmed or separated milk) contains less than three per cent of milk fat. it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine, by reason of the abstraction therefrom of milk fat or the addition thereto of water.

(2) When a sample of cow's milk or any skimmed or separated cow's milk contains less than 8·5 per cent of milk solids other than milk fat, it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine by reason of the addition thereto of water.

(3) When a sample of cow's milk whether sold as cow's milk or as skimmed or separated cow's milk contains less than 0·5 per cent of nitrogen, it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine by reason of the addition thereto of water.

*Buffalo milk.*—(4) Where a sample of buffalo milk (not being sold as skimmed or separated milk) contains less than 4·5 per cent of milk fat, it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine by reason of the abstraction therefrom of milk fat or the addition thereto of water.

(5) Where a sample of buffalo milk, whether solp as buffalo milk, or as skimmed or separated buffalo milk,

contains less than nine per cent of milk solids other than milk fat, it shall be presumed for the purposes of this Act, until the contrary be proved, that the sample is not genuine by reason of the addition thereto of water.

(6) Where a sample of buffalo milk, whether sold as buffalo milk or as skimmed or separated buffalo milk, contains less than 0·53 per cent of nitrogen, it shall be presumed for the purposes of this Act, until the contrary be proved, that the sample is not genuine, by reason of the addition thereto of water.

*N. B.*—The minimum limits for nitrogen prescribed above under (3) and (6) are intended to be used in those cases in which a sample of milk when it is analysed, is so far decomposed that an estimation of the proportion of milk solids other than milk fat in the sample before decomposition will be unreliable, the proportion of nitrogen not being appreciably affected by decomposition.

*Unspecified milk.*—(7) Where a sample of milk, separated milk or skimmed milk is sold or offered for sale or hawked about, without any indication as to whether it is derived from the cow or the buffalo and by comparison with the minimum limits given for the cow's milk in the above, it appears to be adulterated, it shall be presumed for the purposes of this Act, until the contrary be proved, that the sample is not genuine for the reason given in the above rule or rules which are applicable.

*Maximum limit for dirt in milk.*—(8) Where a sample of milk, separated or skimmed milk deposits on standing for a period of 24 hours or less, an amount of visible sediment exceeding five parts per 100,000 (both milk and sediment being measured by volume), it shall be presumed for the purposes of this Act, until the contrary be proved, that the sample is not genuine by reason of its containing an excessive amount of dirt.

*Cream.*—(9) Where a sample of cream contains less than 20 per cent of milk fat, it shall be presumed for the purposes of this Act, until the contrary be proved, that the sample is not genuine.

*Butter.*—(10) Where the proportion of water in a sample of butter exceeds 20 per cent, it shall be presumed for the purposes of this Act, until the contrary be proved, that the butter is not genuine by reason of the excessive amount of water therein.

*Ghee.*—(11) Where the proportion of water in a sample of ghee exceeds one per cent, it shall be presumed for the purposes of this Act, until the contrary be proved, that the ghee is not genuine by reason of the excessive amount of water therein.

*Section* 20 (*f*).—

7. (1) No person shall add water or any dried or condensed milk or any fluid reconstituted therefrom or any skimmed milk, or separated milk, to milk intended for sale, and no person shall, by himself or by any servant or agent, sell or offer for sale or hawk about any milk to which any such addition has been made.

(2) No person shall abstract any ingredient from milk, without giving due notice of the same, in an unambiguous manner, of the fact of such abstraction therefrom, as prescribed in rules under Section 20 (*d*).

(3) No person either by himself or any servant or agent, shall sell or offer for sale or hawk about as milk, any liquid in the making of which dried milk or condensed milk has been used or to which water or other diluent or adulterant has been added or from which any ingredient has been abstracted, without due notice of the same to the purchaser as prescribed in rule under Section 20 (*d*).

*Section* 20 (*g*).—

8. Any receptacle containing dried, condensed, skimmed or separated milk shall be labelled with an adhesive label which shall contain the information and be of the size, indicated below. The information shall be in black type, printed or written in the centre of the label which shall be of white colour. Nothing else shall be printed or written on the label, except the name of the article. The label shall be clearly visible to the purchaser and shall measure at least 2" x 4" where only Kannada is used or at least 4" x 4" where more than one language is employed.

*Section* 20 (*h*).—

9.—(1) Any person taking a sample of milk for the purposes of this Act may add a preservative for the purpose of retaining the sample in a condition convenient for analytical purposes.

(2) The preservative used shall be the liquid commonly known as "formalin" which is a liquid containing about 40 per cent of formaldehyde in aqueous solution.

(3) The amount of preservative added shall be approximately in proportion of one drop of formalin for every 2 oz. of the sample of milk.

(4) Each sample of milk to which formalin has been added by the person taking the sample shall bear a notification on the label to the effect that it has been "artificially preserved."

(5) For the purposes of this rule, milk includes skimmed and separated milk.

10. *Penalty for breach of rules* Every manufacturer or dealer or vendor who (*a*) disobeys, fails to comply with or acts in contravention of the provisions made under Rule 4 herein, in respect of cleanliness of vessels, receptacles or utensils used for manufacturing, preparing or containing any food intended for sale, or (*b*) neglects to affix labels to notify in the manner prescribed, the fact of the admixture of foreign ingredients in the case of adulterated articles of food or abstraction of any component part therefrom of any article of food, or (*c*) fails to give the purchaser in cases mentioned in Rule 5 information contained in such labels by word of mouth at the time of purchase, or (*d*) manufactures, deals in or sells milk, cream, butter or ghee below the standard prescribed in Rule 6 above shall, on conviction before a Magistrate, be punished with a fine not exceeding Rs. 50 and with a fine which may extend to Rs. 50 for every subsequent offence.

## Amended Rules.

6. The standards of purity prescribed for milk, cream, curds, butter and ghee, and tea and coffee are as follows:—

*Milk.*—

*Cow's Milk.*—

(1) Where a sample of cow's milk (not being sold or offered for sale as skimmed or separated milk) contains less than three per cent of milk-fat, it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine, by reason of the abstraction therefrom of milk-fat or the addition thereto of water.

(2) Where a sample of cow's milk whether sold or offered for sale as cow's milk or as skimmed or separated cow's milk, contains less than 8·5 per cent of milk-solids

other than milk-fat, it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine by reason of the addition thereto of water.

(3) Where a sample of cow's milk, whether sold or offered for sale as cow's milk or as skimmed or separated cow's milk, contains less than 0·5 per cent of nitrogen, it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine by reason of the addition thereto of water.

(4) Where a sample of cow's milk whether sold or offered for sale as cow's milk or as skimmed or separated cow's milk, contains less than 0·5 or more than 0·75 per cent of ash, it shall be presumed for the purposes of this Act, until the contrary be proved, that the sample is not genuine by reason of the addition thereto of water, or the addition of extraneous solids, as the case may be.

*Buffalo's Milk.*—

(5) Where a sample of buffalo's milk (not being sold or offered for sale as skimmed or separated milk) contains less than 4·0 per cent of milk-fat, it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine by reason of the abstraction therefrom of milk-fat, or the addition thereto of water.

(6) Where a sample of buffalo's milk, whether sold or offered for sale as buffalo's milk, or as skimmed or separated buffalo's milk, contains less than 9 per cent of milk solids other than milk-fat, it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine by reason of the addition thereto of water.

(7) Where a sample of buffalo's milk, whether sold, or offered for sale as buffalo's milk, or as skimmed or separated buffalo's milk, contains less than 0·53 per cent of nitrogen, it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine by reason of the addition thereto of water.

*N. B.*—The minimum limits for nitrogen prescribed above under (3) and (7) are intended to be used in those cases in which a sample of milk when it is analysed is so far decomposed that an estimation of the proportion of milk-solids other than milk-fat in the sample before decomposition will be unreliable, the proportion of nitrogen not being appreciably affected by decomposition.

(8) Where a sample of buffalo's milk, whether sold or offered for sale as buffalo's milk, or as skimmed or separated buffalo's milk, contains less than 0·60 or more than 1·00 per cent of ash, it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine by reason of the addition thereto of water, or the addition of extraneous solids, as the case may be.

*Unspecified Milk.*—

(9) Where a sample of milk, separated milk or skimmed milk, is sold or offered for sale or hawked about, without any indication as to whether it is derived from the cow or the buffalo and by comparison with the minimum limits prescribed above under (1), (2) and (3) for cow's milk, it appears to be adulterated, it shall be presumed for the purposes of this Act, until the contrary be proved, that the sample is not genuine for the reason given in the above rule or rules which are applicable.

*Maximum limit for Dirt in Milk.*—

(10) Where a sample of milk, separated milk or skimmed milk deposits on standing for a period of 24 hours or less, an amount of visible sediment exceeding five parts per 100,000 (both milk and sediment being measured by volume), it shall be presumed for the purposes of this Act, until the contrary be proved, that the milk is not genuine by reason of its containing an excessive amount of dirt.

*Cream.*—

(11) Where a sample of cream contains less than 20 per cent of milk-fat, it shall be presumed for the purposes of this Act, until the contrary be proved, that the sample is not genuine.

*Curd.*—

Curd is the product obtained by lactic acid fermentation of milk.

*Curd from Cow's Milk.*—

(12) Where a sample of curd from cow's milk, whether sold or offered for sale as curd from cow's milk, contains less than 8·9 per cent of total solids and more than 2·82 per cent of acidity in terms of lactic acid, it shall be presumed for the purposes of this Act, until the contrary be proved, that the curd is not genuine by reason of the addition thereto of water.

*Curd from Skimmed (Cow's) Milk.*—

(13) Where a sample of curd from skimmed (cow's) milk, whether sold or offered for sale as curd from skimmed (cow's) milk, contains less than 6·1 per cent of total solids and more than 3·28 per cent of acidity in terms of lactic acid, it shall be presumed for the purposes of this Act, until the contrary be proved, that the curd is not genuine by reason of the addition thereto of water.

*Curd from Buffalo's Milk.*—

(14) Where a sample of curd from buffalo's milk, whether sold or offered for sale as curd from buffalo's milk, cotains less than 9·8 per cent of total solids and more than 3·45 per cent of acidity in terms of lactic acid, it shall be presumed for the purposes of this Act, until the contrary be proved, that the curd is not genuine by reason of the addition thereto of water.

*Curd from Skimmed (Buffalo's) Milk.*—

(15) Where a sample of curd from skimmed (buffalo's) milk, whether sold or offered for sale as curd from skimmed (buffalo's) milk, contains less than 7·3 per cent of total solids and more than 3·55 per cent of acidity in terms of lactic acid, it shall be presumed for the purposes of this Act, until the contrary be proved, that the curd is not genuine by reason of the addition thereto of water.

*Curd from Skimmed (Unspecified) Milk.*—

(16) Where a sample of curd from skimmed milk is sold or offered for sale or hawked about, without any indication as to whether it is made of cow's or buffalo's milk and by comparison with the limits prescribed above under (13) for curd from skimmed (cow's) milk, it appears to be adulterated, it shall be presumed for the purposes of this Act, until the contrary be proved, that the sample is not genuine.

*Butter.*—

(17) (*a*) Where the proportion of water in a sample of butter made from cow's or buffalo's milk or cream exceeds 20 per cent, it shall be presumed for the purposes of this Act, until the contrary be proved, that the butter is not genuine by reason of the excessive amount of water therein.

NOTE.—Rules 18 and 19 which are intended to be used in the case of ghee samples shall also apply in the case of butter which may be clarified into ghee for this purpose.

(*b*) No preservatives except salt shall be used.

*Ghee.*—

(18) Where the proportion of water in a sample of ghee made from cow's or buffalo's butter exceeds one per cent, it shall be presumed for the purposes of this Act, until the contrary be proved, that the ghee is not genuine by reason of the excessive amount of water therein.

(19) Where a sample of ghee, whether sold or offered for sale, as cow's ghee or buffalo's ghee or mixed ghee does not satisfy the following values, it shall be presumed for the purposes of this Act, until the contrary be proved, that the sample is not genuine.

| | Refractive Index at 40°C | Reichert Meissl value | Polenske value | Free Fatty Acids as oleic, per cent | Saponification value | Iodine value |
|---|---|---|---|---|---|---|
| | | Not less than | Not less than | Not more than | Not less than | Not more than |
| Cow's Ghee ... | 41·0—44·0 | 21·0 | 1·5 | 0·20 | 225 | 41·0 |
| Buffalo's Ghee ... | 41·0—44·0 | 27·0 | 1·5 | 0·30 | 225 | 41·0 |
| Mixed Ghee ... | 41·0—44·0 | 25·0 | 1·5 | 0·28 | 225 | 41·0 |

*Tea.*—

(20) (*a*) Tea shall be derived exclusively from the leaves and buds of plants of the *Camellia* genus and *Thea* species.

(*b*) Tea shall contain—

(i) a proportion of extractive matter in boiling water which is not less than 40 per cent,

(ii) a proportion of total ash of not less than 4 per cent and not more than 8 per cent,

(iii) a proportion of ash insoluble in boiling water which is not more than 3·0 per cent, and

(iv) the total alkalinity of the ash as $K_2O$ should not be less than 1·7 or more than 2·0.

*N.B.*—For the purpose of this rule, the ash of tea shall be determined on dry tea, that is, tea dried to constant weight at 100°C.

(*c*) Where a sample of tea does not comply with all the standards specified in sub-rules (*a*) and (*b*), it shall be presumed for the purposes of this Act, until the contrary be proved, that the tea is not genuine.

*Coffee.*—

(21) (*a*) "Coffee" means the seed of cultivated varieties of *Coffea arabica*, *Coffea liberica* and *Coffea robusta*.

"Green, raw or unroasted Coffee" is coffee freed from all but a small portion of its spermoderm, and conforms in variety and in place of production to the name it bears.

"Roasted Coffee" means properly cleaned green coffee which by the action of heat (roasting) has become brown and has developed its characteristic aroma and shall not contain any admixture of other substances than coffee, save as under (*d*).

(*b*) Coffee shall contain—

(i) a proportion of extractive matter in boiling water which is not less than 30 per cent,

(ii) a proportion of total ash of not less than 4 per cent and not more than 5 per cent,

(iii) a proportion of ash insoluble in boiling water which is not more than 1·4 per cent, and

(iv) the total alkalinity of the ash as $K_2O$ should not be less than 1·8 or more than 2·2.

*N.B.*—For the purpose of this rule, the ash of coffee powder shall be determined on dry coffee powder, that is, coffee powder dried to constant weight at 100°C.

(*c*) Where a sample of coffee does not comply with all the standards specified in sub-rules (*a*) and (*b*) it shall be presumed for the purposes of this Act, until the contrary be proved, that the coffee is not genuine.

(*d*) The only permissible adulterant to coffee is chicory, which may be added to the coffee in a proportion not exceeding 50 per cent. The fact of such an addition and the exact proportion of the adulterant shall be clearly indicated on the label of the container or packet, containing the mixture, in a conspicuous place and in distinct legible letters.

When ground coffee is sold or exposed for sale in loose form, *i.e.*, other than in specifically prepared packets or containers, the receptacles containing the coffee, or on which it is exposed or kept for sale, shall be labelled with labels indicating the nature and extent of the adulterant present (if any) in letters less than one-half of an inch in size. Absence of such a label will be taken to imply that the coffee so kept or exposed for sale is meant to be sold as pure coffee.

No. S.D.60—C. 73-49-93, dated Bangalore, 5th April 1950.

In exercise of powers conferred by Rules 75-A, 75-B and 81 of the Defence of India Rules as applied to Mysore and continued by the Supplies, Services and Miscellaneous Provisions (Temporary Powers) Act, 1947 (XX of 1947), His Highness the Maharaja of Mysore is pleased to direct that the following shall be inserted as sub-clause (iv) under clause 17 of the Articles of Food Acquisition (Harvest) Order, 1949, issued in Notification No. S.D. 4054—C. 73-49-4, dated 21st November 1949 and further directs that with reference to sub-rule (1) of Rule 119 of the said Rules, that notice of this additional clause shall be given by publication of the same in the *Mysore Gazette* and by the issue of a Press Note summarising and explaining its Provisions:—

Under clause 17, the following shall be inserted as sub-clause (iv) namely :—

"*18 (iv)*.—A holder of land situated in the Mysore State but residing in the Madras State, is permitted to transport on a permit to be issued by the Deputy Commissioner of the District in which such land is situate, such quantity of foodgrains mentioned in schedule 1 of the Harvest Order, 1949, from out of the yield of the land as is required for one year or until the next harvest, whichever is earlier, for the *bona fide* consumption of the family of the holder, as certified by the concerned authority who has jurisdiction over the place in which the holder resides, subject to the condition that he has surrendered to Government the entire surplus grains assessed to him".

By Order of His Highness the Maharaja,

A. S. KHALEEL,

*Secretary to Government,*

*Food and Agriculture Departments.*

NO Fl. 136—GF. 178-49-5 Dated Bangalore, 6th April 1950.

In exercise of the powers conferred by sub-section (2) of Section 1 of the Mysore Duty on Gold (Repealing) Act, 1949 (Act No. LXI of 1949), the Rajpramukh of Mysore, His Highness the Maharaja, is pleased to appoint the 27th day of July 1949 as the date on which the said Act shall be deemed to have come into force.

By Order of His Highness the Maharaja,

M. SHAMANNA,

*Secretary to Government,*
*Finance Department.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

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# The Mysore Gazette

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## PART IV.

### Section I-B

### ACTS OF PARLIAMENT AND ORDINANCES OF THE PRESIDENT WHICH APPLY TO MYSORE.

### NOTIFICATION.

No. L.D. 26—Legis. 2-50-3, Bangalore, dated 6th March 1950.

Ordered that the accompanying Finance Act, 1950 (XXV of 1950), published in the *Gazette of India*, dated the 1st April 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Legal Remembrancer and Secretary to Government, Law Department.*

Received assent on 31st March 1950.

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

# THE FINANCE ACT, 1950 (XXV OF 1950)

AN

ACT

*to give effect to the financial proposals of the Central Government for the year beginning on the 1st day of April, 1950.*

BE it enacted by Parliament as follows:—

**1. Short title.**—This Act may be called the Finance Act, 1950.

**2. Income-tax and super-tax.**—(*1*) Subject to the provisions of sub-sections (*3*), (*4*) and (*5*), for the year beginning on the 1st day of April, 1950,—

(*a*) income-tax shall be charged at the rates specified in Part I of the First Schedule, and

(*b*) rates of super-tax shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (hereinafter referred to as "the Income-tax Act"), be those specified in Part II of the First Schedule.

XI of 1922

(*2*) In making any assessment for the year ending on the 31st day of March, 1951, there shall be deducted from the total income of an assessee, in accordance with the provisions of section 15A of the Income-tax Act, an amount equal to one-fifth of the earned income, if any, included in his total income but not exceeding in any case four thousand rupees.

(*3*) In making any assessment for the year ending on the 31st day of March, 1951,—

(*a*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" as reduced by the deduction for earned income appropriate thereto, or any income chargeable under the head "Interest on securities," or any income from dividends in respect of which by virtue of section 49B

of the Income-tax Act he is deemed himself to have paid the income-tax imposed under that Act, the Income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1949, on his total income the same proportion as the amount of such inclusions bears to his total income; XIV of 1949

(*b*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (*2*) of section 18 of the Income-tax Act, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable, according to the rates applicable under the operation of the Indian Finance Act, 1949, on his total income the same proportion as the amount of such inclusion bears to his total income.

(*4*) In making any assessment for the year ending on the 31st day of March, 1951,—

(*a*) where the total income of a company includes any profits and gains from life insurance business, the super-tax otherwise payable by the company on the whole of such total income shall be reduced by an amount which bears to that super-tax the same proportion as the amount of such inclusion bears to its total income or by an amount computed at the rate of two annas in the rupee on the amount of such inclusion, whichever is less;

(*b*) where the total income of an assessee, not being a company, includes any profits and gains from life insurance business, the income-tax and super-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of such taxes payable according to the rates applicable under the operation of the Indian Finance Act, 1942, on his total income the same proportion as the amount of such inclusion bears to his total income, so however that the aggregate of the taxes so computed in respect of such inclusion shall not in any case exceed the amount of tax payable on such inclusion at the rate of four and a half annas in the rupee. XII of 1942

(5) In cases to which section 17 of the Income-tax Act applies, the tax chargeable shall be determined as provided in that section, but with reference to the rates imposed by sub-section (1), and in accordance, where applicable, with the provisions of sub-sections (3) and (4) of this section.

(6) For the purposes of making any deduction of income-tax in the year beginning on the 1st day of April, 1950, under sub-section (2) or sub-section (2B) of section 18 of the Income-tax Act from any earned income chargeable under the head "Salaries," the estimated total income of the assessee under this head shall, in computing the income-tax to be deducted, be reduced by an amount equal to one-fifth of such earned income, but not exceeding in any case four thousand rupees; but no abatement shall be allowed by the person responsible for paying the salary in respect of any donations made by the assessee to which section 15B of the Income-tax Act is or may be applicable.

(7) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Income-tax Act, and the expression "earned income" has the meaning assigned to it in clause (6AA) of section 2 of that Act.

3. **Amendment of Act XI of 1922.**—With effect from the 1st day of April, 1950, the following amendments shall be made in the Income-tax Act, namely:—

(a) for sub-section (2) of section 1, the following sub-section shall be substituted, namely:—

"(2) It extends to the whole of India, except the State of Jammu and Kashmir, and applies also within that State to all persons in the service of the Government of India or the Government of any State other than the State of Jammu and Kashmir."

(b) for clause (14A) of section 2, the following clause shall be substituted, namely:—

(14A) "taxable territories" means—

(a) as respects any period before the 15th day of August, 1947, the territories then referred to as British India, but including Berar,

(*b*) as respects any period after the 14th day of August, 1947, and before the 26th day of January, 1950, the territories for the time being comprised in the Provinces of India, but excluding the merged territory of Cooch-Behar,

(*c*) as respects any period after the 25th day of January and before the 1st day of April, 1950, the territories comprised in Part A States, but excluding the merged territory of Cooch-Behar, and the territories comprised in Part C States, but excluding the States of Manipur, Tripura and Vindhya Pradesh,

(*d*) as respects any period after the 31st day of March, 1950, and before the 13th day of April, 1950, the territory of India excluding the State of Jammu and Kashmir and the Patiala and East Punjab States Union, and

(*e*) as respects any period after the 12th day of April, 1950, the territory of India excluding the State of Jammu and Kashmir:

Provided that the taxable territories shall be deemed to include—

(*a*) the merged territories—

(*i*) as respects any period after the 31st day of March, 1949, for any of the purposes of this Act, and

(*ii*) as respects any period included in the previous year, for the purpose of making any assessment for the year ending on the 31st day of March, 1950, or for any subsequent year; and

(*b*) the whole of the territory of India excluding the State of Jammu and Kashmir—

(*i*) as respects any period, for the purposes of sections *4A* and *4B*,

(*ii*) as respects any period after the 31st day of March, 1950, for any of the purposes of this Act, and

(*iii*) as respects any period included in the previous year for the purpose of making any assessment

of the year ending on the 31st day of March, 1951, or for any subsequent year;';

(*c*) in *Explanation* 4 to sub-section (*1*) of section 4,—

(*i*) after the words "merged territories," the words "or any of the Part B States other than the State of Jammu and Kashmir" shall be inserted, and

(*ii*) after the words "merged territory," the words "or State" shall be inserted;

(*d*) in clause (*xii*) of sub-section (*3*) of section 4, for the figures "1950" the figures "1952" shall be substituted;

(*e*) for sub-section (*2*) of section 7, the following sub-section shall be substituted, namely:—

"(*2*) any income which would be chargeable under this head if paid in the taxable territories shall be deemed to be so chargeable if paid in the State of Jammu and Kashmir by or on behalf of the Central Government or the Government of any State other than the State of Jammu and Kashmir";

(*f*) in sub-clause (*a*) of clause (*vi*) of sub-section (*2*) of section 10, for the figures "1950" the figures "1952" shall be substituted;

(*g*) in sub-section (*2*) of section 44B, for the word "one-twentieth", the word "one-sixth" shall be substituted;

(*h*) in section 60A, after the words "merged territories", the words and letter "or to any Part B State" shall be inserted;

(*i*) in sub-clause (*a*) of clause (*iv*) of sub-section (*2*) of section 61, after the words "merged territories" the words, figures and letter "or before the 1st day of April, 1950, in any Part B State other than the State of Jammu and Kashmir" shall be inserted; and

(*j*) in sub-section (*8*) of section 66,—

(*i*) in clause (*a*), after the words and letter "Part A State," the words and letter "or Part B State" shall be inserted,

(*ii*) in clause (*b*), after the word "Ajmer" the words "and Vindhya Pradesh" shall be inserted,

(*iii*) after clause (*e*), the following clause shall be inserted, namely :—

"(*ee*) in relation to Manipur and Tripura, the High Court of Assam ;".

**4. Alteration of certain duties of customs.**—In the First Schedule to the Indian Tariff Act, 1934,— XXXII of 1934

(*a*) for Items Nos. 75, 75(1), 75(2) and 75(3), the following Items shall be substituted namely :—

| | | | |
|---|---|---|---|
| "75 | Conveyances not otherwise specified and component parts and accessories thereof, other than parts and accessories of motor vehicles and batteries, also motor vans and motor lorries imported completely assembled. | Revenue | 30% *ad valorem.* ... |
| 75 (1) | Motor cars, including taxi cabs, imported completely assembled. | Preferential Revenue. | 60% *ad valorem.* 54% *ad valorem.* |
| 75 (2) | Motor cycles and motor scooters, and articles (other than rubber tyres, tubes and batteries) adapted for use as parts and accessories thereof, except such articles as are also adapted for use as parts and accessories of other motor vehicles. | Preferential Revenue. | 45% *ad valorem.* 37½% *ad valorem.* |
| 75 (3) | Motor omnibuses imported completely assembled. | Preferential Revenue. | 30% *ad valorem.* 22½% *ad valorem.* |

NOTE.—Motor vehicles, other than motor cycles and motor scooters, when imported otherwise than in a completely assembled condition, shall be dutiable as articles or parts of articles under Item Nos. 75(9), 75(10) or 75(11), as the case may be."

(*b*) after Item No. 75(8), the following Items shall be inserted, namely :—

| | | | |
|---|---|---|---|
| "75 (9) | The following articles, and parts thereof, adapted for use as parts and accessories of motor vehicles other than motor cycles and motor scooters; | Preferential Revenue. | 60% *ad valorem.* 54% *ad valorem.* |

| | | | |
|---|---|---|---|
| (*i*) the following engine components; gaskets, rubber mountings, hose pipes other than brake hose pipes, fuel pump diaphragms, fan belts, rubber components, mufflers, exhaust pipes and tail pipes; and<br>(*ii*) the following frame and body components: carpets, cushion springs, door and window fittings, trim materials (leather, jute canvas and leather cloth), bus bodies, station wagon bodies, truck bodies, steel cabs for lorries, pick-up bodies, and parcel van bodies. | | | |
| 75 (10). The following articles, and parts thereof, adapted for use as parts and accessories of motor vehicles other than motor cycles and motor scooters:<br>(*i*) the following engine components: brake hose pipes, crank shafts, cam shafts, cams, connecting rods, cylinder blocks and heads, manifolds, valves, valve springs, valve tappets, fly wheel, petrol tank, air cleaner, radiator, oil filter, fan, piston assembly (*viz.*, pistons, piston rings and gudgeon pins), fuel pump, water pump, timing gears and cylinder liners;<br>(*ii*) the following electrical components: starting motor, generator, head lamps and other lamps, fuses, switches, voltage and current regulator, ignition coil, cables and wires, and horn;<br>(*iii*) the following transmission and suspension components: ball and roller bearings, front and rear springs, king pins, shackle pins, bumpers, shock absorbers, spring hanger brackets, clutches, shackles, transmission gear and gear box, propeller shafts, universal joints, rear axle, front axle, front suspension, brake drums; and<br>(*iv*) the following frame and body components: seat runners, short members of chassis frame, and brackets. | Preferential Revenue. | 90% *ad valorem.* | 84% *ad valorem.* |

| | | | |
|---|---|---|---|
| 75 (11) (a) Articles [other than rubber tyres, tubes, batteries and such other components as are specified in Items Nos. 75(9) and 75(10)] adapted for use as parts and accessories of motor vehicles other than motor cycles and motor scooters; and | Preferential Revenue. | 30% *ad valorem*, | 24% *ad valorem*. |
| (b) Parts of mechanically propelled vehicles and accessories, not otherwise specified: | Preferential Revenue. | 30% *ad valorem*. | 22½% *ad valorem*. |
| Provided that such articles as are ordinarily also used for other purposes than as parts and accessories of motor vehicles shall be dutiable at the rate of duty specified for such articles." | | | |

5. **Additional duties of customs.**—When any goods chargeable with a duty of customs under the First Schedule to the Indian Tariff Act, 1934, or under that Schedule read with any notification of the Central Government for the time being in force are assessed to duty, there shall, up to the 31st day of March, 1951, be levied and collected as an addition to, and in the same manner as, the total amount so chargeable— XXXII of 1934.

(*a*) a sum equal to such amount, in the case of goods comprised in Items Nos. 22(2) and 22(4);

(*b*) a sum equal to one-half of such amount, in the case of goods comprised in Items Nos. 48, 48(1), 48(2), 48(4), 48(5), 48(6), 48(7), 48(8), 48(10) and 51(2), and in the case of textile manufactures specified in Item No. 49 when made wholly or mainly of any of the fabrics specified in Items Nos. 48, 48(1), 48(4), 48(5), 48(7), or 48(10);

(*c*) a sum equal to two-fifths of such amount, in the case of goods comprised in Items Nos. 47(2), 59(2), 59(4), and 59(5); and

(*d*) a sum equal to one-fifth of such amount in the case of goods comprised in any Item of the said Schedule other than those specified in clause (*a*), (*b*), or (*c*) of this section or in the Second Schedule to this Act:

Provided that in the case of goods comprised in Items Nos. 48 to 48(10), both inclusive, and in the case of textile manufactures specified in sub-items (a) and (b) of Item

No. 49, if the duty of excise for the time being leviable on like goods or, as the case may be, on the fabrics of which such textile manufactures are wholly or mainly made, exceeds the sum of—

(*i*) the duty of customs chargeable under the First Schedule to the Indian Tariff Act, 1934, or under that Schedule read with any notification of the Central Government for the time being in force, and

(*ii*) the additional duty of customs chargeable under clause (*b*) or (*d*) of this section,

there shall, up to the 31st day of March, 1951, be levied and collected as a further addition to, and in the same manner as, the duties of customs so chargeable an amount equal to the aforesaid excess.

**6 Substitution of revenue duties for protective duties.**—In the First Schedule to the Indian Tariff Act, 1934, in each of the Items No. 17 and No. 28(19),—

(*a*) for the word "Protective" in the third column, the word "Revenue" shall be substituted; and

(*b*) the entry in the last column shall be omitted.

**7. Imposition and alteration of certain export duties.**—In the Second Schedule to the Indian Tariff Act, 1934,—

(*a*) for Item No. 2, the following Item shall be substituted, namely:—

| | | | |
|---|---|---|---|
| "2. | Jute manufactures (including manufacture of Bimlipatam jute or of mesta fibre), when not in actual use as coverings, receptacles or bindings for other goods— | | |
| (*i*) | Sacking (cloth, bags, twist,) yarn, rope and twine | Ton of 2,240 lbs. | Rs. 50 |
| (*ii*) | Hessians . . . . . | Ton of 2,240 lbs. | Rs. 350 |
| (*iii*) | All other descriptions of jute manufactures not otherwise specified. | Ton of 2,240 lbs, | Rs. 80"; |

(*b*) in Item No. 3, for the entry in the last column, the entry "Rs. 100" shall be substituted; and

(c) after Item No. 8, the following Items shall be inserted, namely:—

| | | | |
|---|---|---|---|
| "9. | Mustard oil | lb. | 8 annas. |
| 10(a) | Iron or steel, other than sheets, the following:— | ... | 45% *ad valorem* |
| | ingots; blooms; billets; sheet bars and slabs; steel castings; heavy structurals (including heavy sections of joists, channels and angles); light structurals (including light sections of joists, channels, angles, tees and light rails of 30 lbs. and under); tyres, wheels and axles; shell steel ingots, blooms, billets and bars; heavy rails (over 30 lbs.); fish plates; dog-spikes; chair-spikes; screw-spikes; tinplate; terneplate; plates (ship-building); plates (ordinary mild steel and tensile); plates (bullet proof); bars (including flats, squares, rounds, hexagons and rods); bolts (including fish bolts), nuts and rivets: black or galvanised wire, whether plain or barbed: wire nails; wire (miscellaneous); hoops and strips; spring steel in any unfabricated or semi-fabricated form; tool steel in any unfabricated or semi-fabricated form; steel pressure pipes, tubes and fittings, coated or uncoated, excluding electrical conduit pipes; cast iron pressure pipes and specials; pressure pipes made of any substance reinforced with iron and steel; and wire ropes. | | |
| (b) | Iron or steel, black sheets and galvanised sheets (plain and corrugated). | ... | 30% *ad valorem.* |
| 11. | Black pepper ... ... | ... | 30% *ad valorem.* |

**8. Alteration of certain duties of Central excise.**—In the First Schedule to the Central Excises and Salt Act, 1944,— 1 of 1944

(a) in Item No. 2, for the entries in the last columns against sub-items (1)(ii), (1) (iii), (2)(ii) and (2) (iii), the following entries shall, respectively, be substituted:—

"Two rupees and fourteen annas and six pies per gross of boxes";
"Two rupees and thirteen annas per gross of boxes";
"One rupee and fifteen annas per gross of boxes"; and
"One rupee and fourteen annas per gross of boxes";

(*b*) in Item No. 12, for the entries in the last column against sub-items (1) and (2), the entries "Twenty per cent. *ad valorem*" and "Five per cent. *ad valorem*" shall, respectively, be substituted.

**9 Discontinuance of salt duty.**—For the year beginning on the 1st day of April, 1950, no duty shall be levied on salt manufactured in, or imported by sea or land into, the territory of India excluding the State of Jammu and Kashmir.

**10 Inland postage rates.**—With effect from the 1st day of April, 1950, the Schedule contained in the Third Schedule to this Act shall be substituted for the First Schedule to the Indian Post Office Act, 1898.

VI of 1898

**11 Extension of certain Central Acts to certain Part B States.**—(1) With effect from the 1st day of April, 1950, the following Acts, namely:—

VIII of 1878 (*i*) the Sea Customs Act, 1878,

XIX of 1924 (*ii*) the Land Customs Act, 1924,

XXXII of 1934 (*iii*) the Indian Tariff Act, 1934, and

I of 1944 (*iv*) the Central Excises and Salt Act, 1944,

and all rules and orders made thereunder which are in force immediately before the commencement of this Act, are hereby extended to, and shall be in force in, the whole of India except the State of Jammu and Kashmir.

(2) With effect from the 1st day of April, 1950, the Indian Post Office Act, 1898 and all rules and orders made thereunder which are in force immediately before the commencement of this Act are hereby extended to, and shall be in force in, the whole of India.

(3) With effect from the 1st day of April, 1950, the amendments specified in the Fourth Schedule shall be made in the Acts specified therein.

**12. Removal of difficulties.**—If any difficulty arises in giving effect to the provisions of any of the Acts, rules or orders extended by section 3 or section 11 to any State or merged territory, the Central Government may, by order, make such provision, or give such direction, as appears to it to be necessary for removing the difficulty.

**13. Repeals and savings.**—(1) If immediatly before the 1st day of April, 1950, there is in force in any Part B State other than Jammu and Kashmir or in Manipur, Tripura or Vindhya Pradesh or in the merged territory of Cooch-Behar any law relating to income-tax or super-tax or tax on profits of business, that law shall cease to have effect except for the purposes of the levy, assessment and collection of income-tax and super-tax in respect of any period not included in the previous year for the purposes of assessment under the Indian Income-tax Act, 1922, for the year ending on the 31st day of March, 1951, or for any subsequent year, or as the case may be the levy, assessment and collection of the tax on profits of business for any chargeable accounting period ending on or before the 31st day of March 1949: XI of 1922

Provided that any reference in any such law to an officer, authority, tribunal or court shall be construed as a reference to the corresponding officer, authority, tribunal or court appointed or constituted under the said Act, and if any question arises as to who such corresponding officer, authority, tribunal or court is, the decision of the Central Government thereon shall be final:

Provided further that where under any such law, tax is chargeable on the total income including agricultural income, the assessment shall be made by the corresponding officer or authority referred to in the preceding proviso only in respect of income other than agricultural income and the tax payable on such income shall be an amount bearing to the total amount of tax which would have been payable under the State law if a combined assessment had been made, the same proportion as such income bears to the total income including the agricultural income, so however that for this purpose any reduction of tax allowed on the agricultural income by the State law shall not be taken into account.

(2) If immediately before the 1st day of April, of 1950, there is in force in any State other than Jammu and Kashmir a law corresponding to, but other than, an Act referred to in sub-section (1) or (2) of section 11, such law is hereby repealed with effect from the said date; and if immediatly before the said date there is in force in the State of Jammu and Kashmir a law corresponding to the Indian Post Office Act, 1898, such law is hereby repealed with effect from the said date: VI of 1898

Provided that such repeal shall not affect (*a*) the previous operation of the corresponding law, or (*b*) any penalty, forfeiture or punishment ordered in respect of an offence committed against any such law, or (*c*) any investigation, legal proceeding or remedy in respect of such penalty, forfeiture or punishment, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed.

## THE FIRST SCHEDULE

(*See* Section 2)

### PART I

*Rates of Imcome-tax*

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraph B or C of this Part applies—

| | | Rate |
|---|---|---|
| 1. | On the first Rs. 1,500 of total income | Nil. |
| 2. | On the next Rs. 3,500 of total income | Nine pies in the rupee. |
| 3. | On the next Rs. 5,000 of total income | One anna and nine pies in the rupee. |
| 4. | On the next Rs. 5,000 of total inceme | Three annas in the rupee. |
| 5. | On the balance of total income | Four annas in the rupee : |

Provided that—

(*i*) no income-tax shall be payable on a total income which, before deduction of the allowance, if any, for earned income, does not exceed the limit specified below;

(*ii*) the income-tax payable shall in no case exceed half the amount by which the total income (before deduction of the said allowance, if any, for earned income) exceeds the said limit;

(*iii*) the income-tax payable on the total income as reduced by the allowance for earned income shall not exceed either—

(*a*) a sum bearing to half the amount by which the total income (before deduction of the allowance for earned income) exceeds the said limit the same proportion as such reduced total income bears to the unreduced total income, or

(*b*) the income-tax payable on the income so reduced at the rates herein specified,—

whichever is less.

The limit referred to in the above proviso shall be—

(*i*) Rs. 7,200 in the case of every Hindu undivided family which satisfies as at the end of the previous year either of the following conditions, namely :—

(*a*) that it has at least two members entitled to a share on partition who are not less then 18 years of age; or

(*b*) that it has at least two members entitled to a share on partition neither of whom is a lineal descendant of the other and both of whom are not lineally descended from any other living member of the family; and

(*ii*) Rs. 3,600 in every other case.

B. In the case of every company—

| | Rate |
|---|---|
| On the whole of total income..... | .....Four annas in the rupee : |

Provided that in the case of a company which, in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1951, has made the prescribed arrangements for the declaration and payment with in the territory of India excluding the State of Jammu and Kashmir, of the dividends payable out of such profits, and has deducted super-tax from the dividends in accordance with the provisions of sub-section (*3D*) or (*3E*) of section 18 of that Act—

(*i*) where the total income, as reduced by six and a half annas in the rupee and by the amount, if any exempt from income-tax, exceeds the amount, of any dividends (including dividends payable at a fixed rate) declared in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March, 1951, and no order has been made under sub-section (1) of section 23A of the Income-tax Act, a rebate shall be allowed at the rate of one anna per rupee on the amount of such excess;

(*ii*) where the amount of dividends referred to in clause (*i*) above exceeds the total income as reduced by six and a half annas in the rupee and by the amount, if any, exempt from income-tax, there shall be charged on the total income an additional income-tax equal to the sum, if any, by which the aggregate amount of income-tax actually borne by such excess (hereinafter referred to as "the excess dividend") falls short of the amount calculated at the rate of five annas per rupee on the excess dividend.

For the purposes of the above proviso, the expression "dividend" shall have the meaning assigned to it in clause (*6A*) of section 2 of the income-tax Act, but any distribution included in that expression, made during the year ending on the 31st day of March, 1951, shall be deemed to be a dividend declared in respect of the whole or part of the previous year.

For the purposes of clause (*ii*) of the above proviso, the aggregate amount of income-tax actually borne by the excess dividend shall be determind as follows :—

(*i*) the excess dividend shall be deemed to be out of the whole or such portion of the undistributed profits of one or more years

immediately preceding the previous year as would be just sufficient to cover the amount of the excess dividend and as have not likewise been taken into account to cover an excess dividend of a preceding year;

(*ii*) such portion of the excess dividend as is deemed to be out of the undistributed profits of each of the said years shall be deemed to have borne tax,—

(*a*) if an order has been made under sub-section (1) of section 23A of the Income-tax Act, in respect of the undistributed profits of that year, at the rate of five annas in the rupee, and

(*b*) in respect of any other year, at the rate applicable to the total income of the company, for that year reduced by the rate at which rebate, if any, was allowed on the undistributed profits.

C. In the case of every local authority and in every case in which, under the provisions of the Income-tax Act, income-tax is to be charged at the maximum rate—

| | Rate |
|---|---|
| On the whole of total income . . . | Four annas in the rupee. |

## PART II

*Rates of Super-tax.*

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other paragraph of this Part applies—

| | | Rate. |
|---|---|---|
| 1. | On the first Rs. 25,000 of total income . | Nil. |
| 2. | On the next Rs. 15,000 of total income . | Three annas in the rupee. |
| 3. | On the next Rs. 15,000 of total income . | Four annas in the rupee. |
| 4. | On the next Rs. 15,000 of total income . | Six annas in the rupee. |
| 5. | On the next Rs. 15,000 of total income . | Seven annas in the rupee. |
| 6. | On the next Rs. 15,000 of total income . | Seven and a half annas in the rupee. |
| 7. | On the next Rs. 50,000 of total income . | Eight annas in the rupee. |
| 8. | On the balance of total income . . | Eight and half annas in the rupee. |

B. In the case of every local authority :—

| | Rate. |
|---|---|
| On the whole of total income . . . | Two and a half annas in the rupee. |

C. In the case of an association of persons being a co-operative society (other than the Sanikatta Saltowners' Society in the State of Bombay) for the time being registered under the Co-operative Societies Act, 1912 or under any law of a State governing the registration of co-operative societies— II of 1912

| | | Rate. |
|---|---|---|
| 1. | On the first Rs. 25,000 of total income . | Nil. |
| 2. | On the balance of total income . . | Two and a half annas in the rupee. |

D. In the case of every company :—

| | Rate. |
|---|---|
| On the whole of total income . . . | Four and a half annas in the rupee : |

Provided that—

(*i*) a rebate at the rate of three annas per rupee of the total income shall be allowed in the case of any company which—

(*a*) in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1951, has made the prescribed arrangements for the declaration and payment in the territory of India excluding the State of Jammu and Kashmir of the dividend payable out of such profits and for the deduction of super-tax from dividends in accordance with the provisions of sub-section (*3D*) or (*3E*) of section 18 of that Act, and

(*b*) is a public company with total income not exceeding Rs. 25,000 ;

(*ii*) a rebate at the rate of two annas per rupee of the total income shall be allowed in the case of any company which satisfies condition (*a*), but not condition (*b*), of the preceding clause ; and

(*iii*) a rebate at the rate of one anna per rupee of the total income shall be allowed in the case of any company which, not being entitled to a rebate under either of the preceding clauses, is—

(*a*) a public company whose shares were offered for sale in a recognised stock exchange at any time during the previous year, or

(*b*) a company all of whose shares were held at the end of the previous year by one or more such public companies as aforesaid :

Provided further that the super-tax payable by a company the total income of which exceeds Rs. 25,000 shall not exceed the aggregate of—

(*a*) the super-tax which would have been payable by the company if its total income had been Rs. 25,000, and

(*b*) half the amount by which its total income exceeds Rs. 25,000.

*Explanation.*—For the purposes of this paragraph of this Part, a company shall be deemed to be a public company only if it is neither a private company within the meaning of the Indian Companies Act, 1913, nor a company in which shares carrying more than fifty per cent of the total voting power were at any time during the previous year, held or controlled by less than six persons.

VII of 1913

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## THE SECOND SCHEDULE.

(*See* section 5)

*Goods on which additional duty of customs is not leviable.*

A. Goods comprised in the following Items of the First Schedule to the Indian Tariff Act, 1934, namely :—

XXXII of 1934

2, 4, 4(1), 4(3), 4(4), 4(5), 7(1), 8(1), 8(2), 8(3), 8(4), 8(5), 9(3), 9(5), 9(6), 9(7), 11(4), 11(5), 12(6), 13(4), 13(8), 13(9), 15, 15(5), 15(9), 15(10), 15(11), 15(12), 16, 16(1), 16(3), 20(1), 20(2), 20(3), 20(4), 20(5), 20(6), 20(7), 20(8), 20(9), 21(3), 21(4), 21(5), 21(6), 21(7), 21(8), 21(9), 22(3), 22(5), 24, 24(1), 24(2), 24(3), 25(1), 27(1), 27(2), 27(3), 27(4), 27(5), 27(6), 27(9), 28, 28(8), 28(14), 28(15), 28(16), 28(17), 28(18), 28(19), 28(20), 28(21), 28(22), 28(23), 28(24), 28(25), 28(26), 28(27), 28(28), 28(29), 28(30), 29, 29(1), 30, 30(1), 30(2), 30(9), 30(10), 30(11), 30(12), 30(13), 31(4), 34(3), 40(4), 40(5), 40(6), 40(7), 43, 44, 44(1), 45, 45(3), 46(3), 49(c), 49(2), 51, 52(4), 53(2), 55, 55(1), 55(2), 55(3), 60, 60(2), 60(3), 60(4), 60(5), 60(6), 61(2), 61(3), 61(8), 61(9), 61(11), 62(1), 62(2), 63(14), 63(30), 63(31), 63(32), 63(33), 63(34), 63(35), 64, 64(3), 64(4), 65, 66, 66(1), 67, 67(1), 67(2), 68, 68(2), 69(2), 70, 70(1), 70(2), 70(3), 70(4), 70(5), 70(6), 70(9), 71(2), 71(3), 71(7), 71(8), 71(9), 71(10), 72, 72(1), 72(2), 72(3), 72(4), 72(5), 72(11), 72(12), 72(13), 72(14), 72(15), 72(16), 72(17), 72(18), 72(19), 72(20), 72(21), 72(22), 72(23), 72(24), 72(25), 72(26), 72(27), 72(28), 72(33), 73(2), 73(4), 73(7), 73(8), 73(9), 73(10), 73(11), 73(12), 73(13), 73(14), 73(15), 74(2), 74(4), 75, 75(1), 75(2), 75(3), 75(5), 75(6), 75(7), 75(8), 75(9), 75(10), 75(11), 77(2), 77(4), 77(5), 78, 78(1), 79, 82(1), 84, 84(1), 85(1).

B. Goods comprised in the following Items of the First Schedule to the Indian Tariff Act, 1934, when the Customs Collector is satisfied that such goods are the produce or manufacture of Burma, namely :—

XXXII of 1934

No. 7 (potatoes and onions only) and Nos. 9, 9(3), 13(2), 17 and 34(4) (a).

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## THE THIRD SCHEDULE.

(*See* section 10)

*Schedule to be substituted for the First Schedule to the Indian Post Office Act*, 1898. VI of 1898

## "THE FIRST SCHEDULE

### INLAND POSTAGE RATES

(*See* section 7)

*Letters*

| | |
|---|---|
| For a weight not exceeding one tola ... | Two annas |
| For every tola, or fraction thereof, exceeding one tola ... ... | One anna |

*Post Cards*

| | |
|---|---|
| Single ... ... | Nine pies |
| Reply ... ... | One and a half annas. |

*Book, Pattern and Sample Packets*

| | |
|---|---|
| For the first five tolas, or fraction thereof ... | Nine pies |
| For every additional two and a half tolas, or fraction thereof, in excess of five tolas ... | Three pies |

*Registered Newspapers*

| | |
|---|---|
| For a weight not exceeding ten tolas ... | Three pies: |
| For a weight exceeding ten tolas and not exceeding twenty tolas ... ... | Six pies |
| For every twenty tolas, or fraction thereof, exceeding twenty tolas ... ... | Six pies |
| In the case of more than one copy of the same issue of a registered newspaper being carried in the same packet— | |
| For a weight not exceeding ten tolas ... | Six pies |
| For every additional five tolas, or fraction thereof, in excess of ten tolas ... ... | Three pies: |
| Provided that such packet shall not be delivered at any addressee's residence but shall be given to a recognised agent at the post office. | |

*Parcels*

| | |
|---|---|
| For a weight not exceeding forty tolas ... | Six annas |
| For every forty tolas, or fraction thereof, exceeding forty tolas ... ... | Six annas" |

## THE FOURTH SCHEDULE

(*See* section 11)

*Amendments of Central Acts*

I. *The Sea Customs Act*, 1878 (*VIII of* 1878).

(1) Throughout the Act, for the words "the States" wherever they occur, the word "India" shall be substituted.

(2) In section 1, for the words and letter "Part B States," the words "the State of Jammu and Kashmir" shall be substituted.

(3) In section 3,—

(*a*) for clause (*e*), the following clauses shall be substituted, namely :—

"(*e*) "foreign port" means any place not within the territory of India ;

(*ee*) "India" means the territory of India excluding the State of Jammu and Kashmir;" and

(*b*) clause (*k*) shall be omitted.

(4) After section 3, the following section shall be inserted, namely :—

"3*A*. *Power to define customs frontiers.*—The Central Government may, by notification in the Official Gazette, define the customs frontiers of India."

(5) In section 18,—

(*a*) for the word "States" wherever it occurs, the word "India" shall be substituted ; and

(*b*) for clauses (*f*), (*i*) and (*j*), the following clauses shall, respectively, be substituted, namely :—

"(*f*) piece-goods manufactured outside India, such as are ordinarily sold by length or by the piece, if each piece has not been conspicuously marked—

(*i*) with the name of the manufacturer, exporter, of wholesale purchaser in India, of the goods, and

(*ii*) with the real length of the piece in standard yards, inscribed in the international form of numerals;"

"(*i*) cotton yarn manufactured outside India, such as is ordinarily imported in bundles, if each bundle containing such yarn has not been conspicuously marked—

(*i*) with the name of the manufacturer, exporter, or wholesale purchaser in India, of the goods, and

(*ii*) with an indication of the weight and the count of the yarn contained in it, in accordance with the rules made under section 20 of the Indian Merchandise Marks Act, 1889;"

"(j) cotton sewing, darning, crochet or handicraft thread manufactured outside India, if each of the units in which the thread is supplied has not been conspicuously marked—

(i) with the name of the manufacturer, exporter, or wholesale purchaser in India, of the goods, and

(ii) with the length or weight of the thread contained in it and in such other manner as is required by the rules made under section 20 of the Indian Merchandise Marks Act, 1889."

*II. The Land Customs Act*, 1924 (*XIX of* 1924).

(1) In sub-section (2) of section 1, for the words and letter "Part B States" the words "the State of Jammu and Kashmir" shall be substituted.

(2) In clause (e) of section 2, for the words and letters "the territories comprised within Part A States and Part C States" the word "India" shall be substituted.

(3) In sub-section (2) of section 7, for the words and letters "Part A States and Part C States," the word "India" shall be substituted.

(4) In the Schedule, for the word and figure "Section 4," the word, figures and letter "Sections 3A, 4" shall be substituted.

*III. The Indian Tariff Act*, 1934 (*XXXII of* 1934).

(1) In sub-section (2) of section 1, for the words and letter "Part B States" the words "the State of Jammu and Kashmir" shall be substituted.

(2) In sub-section (4) of section 2, section 5 and section 6, for the words and letters "a Part A State or a Part C State" wherever they occur, the word "India" shall be substituted.

(3) In section 5, sub-section (1) of section 9 and the First Schedule for the words and letters "Part A States and Part C States" the word "India" shall be substituted.

(4) In section 8, for the words "the States" the word "India" shall be substituted.

(5) In the First Schedule, Item No. 12(1) shall be omitted.

*IV. The Central Excises and Salt Act*, 1944 (*I of* 1944).

(1) Throughout the Act, for the words "the States" wherever they occur, the word "India" shall be substituted.

(2) In sub-section (2) of section 1, for the words and letter "Part B States" the words "the State of Jammu and Kashmir" shall be substituted.

(3) In section 2,—

(a) after clause (e), the following clause shall be inserted, namely :—

'(ee) "India" means the territory of India excluding the State of Jammu and Kashmir;' and

(b) clause (jj) shall be omitted.

(4) In section 5, for the words and letter "the territory of a Part B State" the words "the State of Jammu and Kashmir" shall be substituted.

(5) In clause (*iii*) of sub-section (*2*) of section 37, for the words and letter "any specified Part B State" the words "the State of Jammu and Kashmir" shall be substituted.

*V. The Indian Post Office Act*, 1898 (*VI of* 1898).

(1) Throughout the Act, for the words "the State" wherever they occur, the word "India" shall be substituted.

(2) The following shall be omitted, namely :—

(*a*) in sub-section (*2*) of section 1, the words and letter "except Part B States";

(*b*) clause (*1*) of section 2;

(*c*) in sub-section (*1*) of section 36 and in sub-section (*1*) of section 46, the wards, "Indian State corresponding to a" and the words and letter "Part B State"; and

(*d*) section 57.

K. V. K. SUNDARAM,
*Secretary.*

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# PART IV

## Section I-C

## NOTIFICATIONS, RULES, ORDERS, ETC., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

### NOTIFICATIONS.

No. L.D. 1084—Legis. 37-49-19, dated Bangalore, 16th February 1950.

Ordered that the accompanying Supreme Court Rules, 1950, published in the *Gazette of India*, dated the 28th January 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Legal Remembrancer and*
*Secretary to Government,*
*Law Department.*

GOVERNMENT OF INDIA.

## SUPREME COURT OF INDIA.

### NOTIFICATION

*New Delhi, the 26th January 1950.*

**No. F. 10—50-S.C.J.**—The following is published for general information :—

THE SUPREME COURT RULES, 1950.

The Supreme Court of India, in the exercise of its rule-making powers, and with the approval of the President, hereby makes the following Rules :—

### PART I.

**General.**

### ORDER I.

INTERPRETATION, ETC.

1. These rules may be cited as the Supreme Court Rules, 1950, and shall be deemed to have come into operation on the twenty-sixth day of January, 1950.

2. (1) In these Rules, unless the context otherwise requires—

"Advocate" means a person entitled to appear and plead before the Supreme Court;

"Agent" means an Agent enrolled as such under these rules;

"Chief Justice" means the Chief Justice of India;

"Code" means the Code of Civil Procedure, 1908;

"Constitution" means the Constitution of India;

"Court" and "this Court" mean the Supreme Court of India;

"Judge" means a Judge of the Court;

"Judgment" includes decree, order, sentence or decision of any Court, Judge or Judicial Officer;

"High Court" means—

(i) as respects anything done before the commencement of the Constitution, a High Court within the meaning of Section 219 of the Government of India Act, 1935; and

(ii) as respects anything done or to be done after the commencement of the Constitution, a High Court established by or recognised under the Constitution;

"Party" and all words descriptive of parties to proceedings before the Court (as "appellant", "respondent" "plaintiff", "defendant" and the like) include, in respect of all acts proper to be done by an Agent, the Agent of the party in question, where such party is represented by an Agent;

"Prescribed" means prescribed by or under these Rules;

"Record" in Part II of these Rules means the aggregate of papers relating to an appeal (including the pleadings, proceedings, evidence and judgments) proper to be laid before the Court at the hearing of the appeal;

"Registrar" and "Registry" mean respectively the Registrar and Registry of the Court;

"Respondent" includes an intervener;

"Rules of Court" includes the forms appended to these Rules;

"Signed", save in the case of a judgment and decree, includes stamped;

"Taxing Officer" is the Officer of the Court whose duty it is to tax costs.

(2) The General Clauses Act, 1897, applies for the interpretation of these Rules as it applies for the interpretation of an Act of Parliament;

3. Where by these rules or by any order of the Court, any step is required to be taken in connection with any cause, matter or appeal before the Court, that step shall, unless the context otherwise requires, be taken in the Registry.

4. Where any particular number of days is prescribed by these Rules, the same shall be reckoned exclusively of the first day and inclusively of the last day, unless the last day shall happen to fall on a day on which the offices of the Court are closed, in which case the time shall be reckoned exclusively of that day also and of any succeeding day or days on which the offices of the Court continue to be closed.

## ORDER II.

### OFFICES OF THE COURT: SITTINGS AND VACATION, ETC.

1. The offices of the Court, except during vacation and on Saturdays and holidays, shall, subject to any order by the Chief Justice, be open daily from 10 A.M. to 4-30 P.M., but no work, unless of an urgent nature, shall be admitted after 4 P.M.

2. The offices of the Court shall, except during vacation, be open on Saturdays from 10-30 A.M. to 1-30 P.M., but no work, unless of an urgent nature, shall be admitted after 12-30.

3. The offices of the Court shall be open during vacation, except on Saturdays and holidays, at such times as the Chief Justice may direct.

4. The Court shall sit in two terms annually, the first commencing from the seventh day of January and ending on the last Friday in May, and the second commencing from the 2nd Monday in September and ending on the 23rd December.

4. The Court shall not ordinarily sit on Saturdays, nor on any other days notified as Court holidays in the *Gazette of India*.

6. A Judge shall be appointed by the Chief Justice before the commencement of each long vacation for the hearing of all matters which may require to be immediately or promptly dealt with and whenever necessary a Division Court may likewise be appointed by the Chief Justice for the disposal of cases during the vacation.

## ORDER III.

### Officers of the Court, Etc.

1. The Registrar shall have the custody of the records of the Court and shall exercise such other functions as are assigned to him by these Rules.

2. Any person appointed by the Chief Justice to be acting Registrar during the absence of the Registrar, may exercise all the functions assigned to the Registrar by these Rules, and accordingly any references in these Rules to the Registrar shall include references to an acting Registrar.

3. The Chief Justice may assign, and the Registrar may with the approval of the Chief Justice delegate, to a Deputy Registrar or Assistant Registrar any functions required by these Rules to be exercised by the Registrar.

4. The official Seal to be used in the Court shall be such as the Chief Justice may from time to time direct, and shall be kept in the custody of the Registrar.

5. Subject to any general or special directions given by the Chief Justice, the Seal of the Court shall not be affixed to any writ, rule, order, summons or other process save under the authority in writing of the Registrar.

6. The Seal of the Court shall not be affixed to any certified copy issued by the Court save under the authority in writing of the Registrar or of a Deputy Registrar or Assistant Registrar if authorised in that behalf in writing by the Registrar.

7. The Registrar shall keep a list of all cases pending before the Court and shall, subject to these Rules and to any general or special directions given by the Chief Justice, prepare the list of cases ready for hearing and shall cause public notice to be given thereof.

## ORDER IV.

### Advocates and Agents.

Notes.—The Rules contained in this Order are subject to revision at the end of a period of two years. The Hon'ble Judges of the Court have under consideration a proposal to abolish the "dual" system.

1. The names of all persons who have heretofore been enrolled as Advocates and Agents of the Federal Court shall, as from the

commencement of these Rules, be deemed to have been transferred to the Rolls of Advocates and Agents, respectively, of the Supreme Court, and such Advocates shall take precedence in the Supreme Court in the order in which they were enrolled in the Federal Court.

2. A person qualified as hereinafter mentioned may apply to be enrolled as an Advocate in the Court and if his application is granted shall, on payment of the prescribed fee, be entitled to be so enrolled and to appear and plead before the Court.

3. The Roll of Advocates shall be in two parts, one containing the names of Senior Advocates and the other the names of other Advocates.

4. A Senior Advocate shall have precedence over other Advocates.

5. A Senior Advocate shall not appear or plead without a junior.

6. A Senior Advocate shall not accept instructions to draw pleadings, affidavits, advice on evidence or to do any drafting work of an analogous kind, but this prohibition shall not extend to settling any such matters as aforesaid in consultation with a junior.

7. An enrolled Advocate may, if otherwise qualified, apply to be enrolled in the list of Senior Advocates and any fee payable by him on enrolment shall be reduced by the amount of the fee paid by him on his original enrolment.

8. A junior appearing with a Senior Advocate or with any other Advocate senior to himself shall be entitled to, and shall be paid, a fee not less than one-third of the fee marked on the brief of the Senior, but this Rule shall not apply in the case of a second junior.

9. A person shall not be entitled to be enrolled as an Advocate unless he possesses:

(1) (*a*) a degree in law of an Indian University;

or

(*b*) is a member of the English Bar;

and

(2) has been for not less than ten years in the case of a Senior Advocate or seven years in the case of any other Advocate, enrolled as an Advocate in a High Court or Judicial Commissioner's Court in the territory of India.

The period during which a person was entitled as of right to practise as a vakil or pleader in the High Court of any "Indian State" immediately before his enrolment as an Advocate in the High Court of a State in Part B of the First Schedule to the Constitution may be taken into account for the purpose of calculating the above-mentioned periods of ten years or seven years, as the case may be.

10. The Chief Justice and Judges may, if for any special reason they think it desirable to do so, permit the enrolment of any other person, who is in their opinion sufficiently qualified, as an Advocate, or permit such person to appear as an Advocate in a particular case.

11. No person shall appear as Advocate in any case, unless he is instructed by an Agent.

12. The Roll of Advocates shall be kept by the Registrar and shall contain such particulars as the Court may from time to time require.

13. All Advocates appearing before the Court shall wear such robes and costume as may from time to time be directed by the Chief Justice.

14. The enrolment fee for Senior Advocates shall be Rs. 500, for other Advocates Rs. 250, and for an Agent Rs. 100.

15. The Attorney-General for India, and after him the Advocate-General of a State appearing as such, shall have precedence over all other Advocates in the Court.

16. Among the Advocates-General of the States *inter se* precedence shall be determined with reference to the date of enrolment in their respective High Courts.

17. Subject to the preceding rules of this Order, an Advocate appearing before the Court shall have precedence among the Senior or other Advocates, as the case may be, according to the date of his enrolment as a Senior or other Advocate in the Court.

18. Any question which arises with respect to the precedence of any Advocate-General of a State or an Advocate shall be determined by the Court before which the question arises.

19. A person may apply to be enrolled as an Agent in the Court if he is entitled to practise as an Attorney or Solicitor in any High Court or if, subject to the next succeeding rule, he has been entitled

to appear and plead in a High Court for a period of five years and, if the application is granted, shall, on payment of the prescribed fee, be entitled to be so enrolled.

20. An Agent shall, before enrolment, subscribe before the Registrar a declaration, in such form as the Chief Justice may from time to time direct, undertaking to observe the Rules, regulations, orders and practice of the Court, to pay all fees or charges due and payable in any cause, matter or appeal in the Court, and not, so long as his name remains on the Roll of Agents, to appear or plead before any High Court, save, in the case of an Attorney or Solicitor, to the extent that he is allowed to do so under the Rules of the High Court in which his enrolment as Attorney or Solicitor took place.

21. Every applicant for enrolment as Advocate or Agent shall produce the following documents :—

(i) a copy of his enrolment certificate in his own High Court duly authenticated by the Registrar of the High Court.

(ii) a certificate from the Registrar of the High Court that he is still an Attorney/Solicitor/Advocate of that High Court,

(iii) a certificate of character obtained from the Attorney-General for India, or the Advocate-General of the State concerned, or a Judge of the High Court of the State.

22. Every Agent shall notify to the Registrar the address of his office in Delhi and of any change of address, and any notice, writ, summons or other document served on the Agent at the address notified by him shall be deemed to have been properly served.

23. An Agent who wishes to have his name removed from the Roll of Agents shall apply by petition, verified by affidavit, stating the date of his enrolment as an Agent, the reason why he wishes his name to be removed, that no application or other proceeding in any Court is pending against him or is anticipated by him, and that no fees are owing to the Court for which he is personally responsible.

24. Every Agent shall before acting on behalf of any person or party file in the Registry a power-of-attorney duly executed in the prescribed form authorising him to act.

25. No person having an Agent on the record shall file a power or warrant of attorney authorising another Agent to act for him in the same case save with the consent of the former Agent or by leave of a

Judge, unless the former Agent is dead, or is unable by reason of infirmity of mind or body to continue to act.

26. No Agent may, without the leave of the Court, withdraw from the conduct of any case by reason only of the non-payment of costs by his client.

27. No person having an Agent on the record shall be heard in person save by special leave of the Court.

28. No Agent shall authorise any person whatsoever, except another Agent, to practise or do any act whatsoever in his name in any case.

29. Where a party changes his Agent, the new Agent shall give notice of the change to all other parties appearing.

30. No Advocate shall act as Agent nor Agent as Advocate in any circumstances whatsoever.

31. Where on the complaint of any person or otherwise, the Court is of opinion that an Advocate has been guilty of misconduct or of conduct unbecoming an Advocate, the Court may suspend him from practising before the Court either permanently or for such period as the Court may think fit, and the Registrar of the Court shall thereupon report his name to his own High Court.

32. Where on the complaint of any person or otherwise, the Court is of opinion that an Agent has been guilty of misconduct or has committed a breach of the undertaking subscribed by him, the Court may suspend him from practising before the Court for such period as the Court may determine, or may direct his name to be struck off the Roll of Agents, and the Registrar of the Court shall thereupon report his name to his own High Court.

33. For the purpose of the last two preceding rules the Court shall in the first instance direct a summon to issue returnable before the Court or before a Special Bench to be constituted by the Chief Justice, requiring the Advocate or Agent, as the case may be, to show cause against the matters alleged in the summons, and the summons shall, if possible, be served personally upon him with copies of any affidavit or statement before the Court at the time of the issue of the summons.

# ORDER V.

## BUSINESS IN CHAMBERS.

1. The powers of the Court in relation to the following matters may be exercised by the Registrar :—

(1) Applications for discovery and inspection.

(2) Applications for delivery of interrogatories.

(3) Applications for substituted service.

(4) Applications for time to plead, for production of document and generally relating to the conduct of cause, appeal or matter.

(5) Applications for leave to take documents out of the custody of the Court under rule 5 of Order IX.

(6) Disputes arising in connection with the payment of Court-fees.

(7) Applications by outsiders for return of exhibits.

2. The powers of the Court in relation to the following matters may be exercised by a single Judge sitting in Chambers :—

(1) Applications for revivor or substitution.

(2) Approval of Special Translator or Special Interpretor.

(3) Applications for production of documents outside Court premises.

(4) Applications for change of Agent.

(5) Applications by Agents for leave to withdraw.

(6) Applications for leave to compromise or discontinue pauper appeals.

(7) Applications for striking out or adding party.

(8) Applications for separate trials of causes of action.

(9) Applications for separate trials to avoid embarrassment.

(10) Rejection of plaint.

(11) Applications for setting down for judgment in default of written statement.

(12) Applications for better statement of claim or defence.

(13) Applications for particulars.

(14) Applications for striking out any matter in a pleading.

(15) Applications for amendment of pleading and for enlargement of time to amend.

(16) Applications to withdraw suits.

(17) Applications for payment into Court.

(18) Applications for payment out of Court of money or security, or interest or divided on securities.

(19) Applications to tax bills returned by the Taxing Officer.

(20) Applications for costs of taxation where one-sixth is taxed off.

(21) Applications for review of taxation by Court.

(22) Applications for enlargement or abridgement of time.

(23) Applications for issue of commissions.

(24) Applications for security for costs.

(25) Applications for assignment of Security Bonds.

(26) Applications for enforcing payment of costs under directions of Registrar.

(27) Applications for extending returnable dates of warrants.

(28) Applications for orders against clients for payment of costs and for delivery by an Agent of documents and papers.

(30) Applications for enrolment of Advocates and Agents.

(31) Applications by Agents for removal of their names from the Roll of Agents.

(32) Applications for grant of bail.

(33) Applications for stay of execution of a sentence or order in criminal proceedings.

(34) Applications for stay of execution of decree or order in civil matters during vacation.

(35) Certifying of cases as fit for employment of Advocate.

3. An appeal shall lie from the Registrar in all cases to the Judge in Chambers:

Provided that it is filed within fifteen days from the date of the order complained of.

4. The Registrar may, and if so directed by the Judge in Chambers shall, at any time adjourn any matter to the Judge in Chambers, and the Judge in Chambers may at any time adjourn any matter into Court.

## ORDER VI

### NOTICES OF MOTION.

1. Except where otherwise provided by statute or prescribed by these Rules, all applications which in accordance with these Rules eannot be made in Chambers shall be made on motion after notice to the parties affected thereby, but the Court where satisfied that the delay caused by notice would or might entail serious hardship, may make any order *ex parte* upon such terms as to costs or otherwise, and subject to such undertaking, if any, as the Court may think just, and any party affected by the order may move to have it set aside.

2. A notice of motion shall be intituled in the suit or matter in which the application is intended to be made and shall state the time and place of application and the nature of the order asked for and shall be addressed to the party or parties intended to be affected by it, unless they have an Agent on record, in which case it may be addressed to the Agent, and shall be signed by the Agent of the party moving, or by the party himself where he acts in person.

3. Save by leave of the Court, there shall be at least five days between service of notice or motion and the day named for bringing on the motion.

4. The notice of motion, together with the affidavit or affidavits of service and the affidavit in support thereof shall be filed in the Registry immediately after service of notice, but not less than four days before the day named for bringing on the motion, and affidavits in answer or reply shall be filed in the Registry during office hours not later than 4 P.M. on the day preceding the day of the hearing.

5. Leave to give short notice of motion may be obtained *ex parte* from the Court and the provisions in the last preceding rule as to the filing of notice of motion and affidavit shall apply, save that they shall be filed not later than the next day after service of the motion.

6. Notice shall be given to the other party or parties of all grounds intended to be urged in support of, or in opposition to, any motion.

7. Save by leave of the Court, no affidavit in support of the application beyond those specified in the notice of motion, nor any affidavit in answer or reply filed later than the time prescribed in these Rules shall be used at the hearing or allowed on taxation.

8. Unless otherwise ordered the costs of a motion in a suit or proceeding shall be treated as costs in that suit or proceeding.

## ORDER VII

### Documents

1. The officers of the Court shall not receive any pleading, petition, affidavit or other document, except original exhibits and certified copies of public documents, unless it is fairly and legibly transcribed on one side of standard petition paper, demy-foolscap size, or paper which is ordinarily used in the High Courts for transcribing such documents.

2. No document in a language other than English shall be accepted for the purpose of any proceedings before the Court, unless translated in accordance with these Rules.

3. Every document required to be translated shall be translated by a translator nominated or approved by the Court.

4. Every translator shall, before acting, made an oath of affirmation that he will translate correctly and accurately all documents given to him for translation.

5. The Registrar may decline to receive any document which is presented otherwise than in accordance with the Rules of the Court.

## ORDER VIII

### Affidavits

1. The Court may at any time, for sufficient reason, order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing, on such conditions as the Court thinks reasonable:

Provided that where it appears to the Court that either party *bona fide* desires the production of a witness for cross-examination and that such witness can be produced, an order shall not be made authorising the evidence of such witness to be given by affidavit.

2. Upon any application evidence may be given by affidavit; but the Court may, at the instance of either party, order the attendance for cross-examination of the deponent, and such attendance

shall be in Court, unless the deponent is exempted from personal appearance in Court or the Court otherwise directs.

3. Every affidavit shall be intituled in the cause, appeal or matter in which it is sworn.

4. Every affidavit shall be drawn up in the first person, and shall be divided into paragraphs to be numbered consecutively, and shall state the description, occupation, if any, and the true place of abode of the deponent.

5. Affidavits shall be confined to such facts as the deponent is able of his own knowledge to prove, except on interlocutory applications, on which statement of his belief may be admitted, provided that the grounds thereof are stated.

6. The costs occasioned by any unnecessary prolixity in the title to an affidavit or otherwise shall be disallowed by the Taxing Officer.

7. An affidavit requiring interpretation to the deponent shall be interpreted by an interpreter nominated or approved by the Court, if made within the State of Delhi, and if made elsewhere shall be interpreted by a competent person who shall certify that he has correctly interpreted the affidavit to the deponent.

8. Affidavits for the purposes of any cause, appeal or matter before the Court may be sworn before any authority mentioned in section 139 of the Code or before the Registrar of this Court, or before a Commissioner generally or specially authorised in that behalf by the Chief Justice.

9. Where the deponent is a *purdahnashin* lady she shall be identified by a person to whom she is known and that person shall prove the identification by a separate affidavit.

10. Every exhibit annexed to an affidavit shall be marked with the title and number of the cause, matter or appeal and shall be initialled and dated by the authority before whom it is sworn.

11. No affidavit having any interlineation, alteration or erasure shall be filed in Court unless the interlineation or alteration is initialled, or unless in the case of an erasure the words or figures written on the erasure are rewritten in the margin and initialled, by the authority before whom the affidavit is sworn.

12. The Registrar may refuse to receive an affidavit where in his opinion the interlineations, alterations or erasures are so numerous as to make it expedient that the affidavit should be rewritten.

13. Where a special time is limited for filing affidavits, no affidavit filed after that time shall be used except by leave of the Court.

14. In this Order "Affidavit" includes a petition or other document required to be sworn and "sworn" shall include "affirmed".

## ORDER IX

### Inspection, Search, Etc.

1. Subject to the provisions of these Rules, a party to any cause, appeal or matter who has appeared shall be allowed to search, inspect or get copies of all pleadings and other documents or records in the case, on payment of the prescribed fees and charges.

2. The Court, at the request of a person not a party to the cause, matter or appeal, may on good cause shown allow such search or inspection or grant such copies as is or are mentioned in the last preceding rule, on payment of the prescribed fees and charges.

3. A search or inspection under the last two preceding rules during the pendency of a cause, matter or appeal, shall be allowed only in the presence of an officer of the Court and after twenty-four hours' notice in writing to the parties who have appeared, and copies of documents shall not be allowed to be taken, but notes of the search or inspection may be made.

4. Copies required under any of the preceding rules of this Order may be certified as correct copies by any officer of the Court authorised in that behalf by the Registrar.

5. No record or document filed in any cause, appeal or matter shall, without the leave of the Court, be taken out of the custody of the Court.

# ORDER X

## JUDGMENTS, DECREES AND ORDERS

1. The Court, after the case has been heard, shall pronounce judgment in open Court, either at once or on some future day, of which due notice shall be given to the parties or their Agents, and the decree or order shall be drawn up in accordance therewith.

2. A member of the Court may read judgment signed by another member.

3. Subject to the provisions contained in Order XXXVIII, a judgment pronounced by the Court or by a majority of the Court or by a dissenting Judge in open Court shall not afterwards be altered or added to, save for the purpose of correcting a clerical or arithmetical mistake or an error arising from any accidental slip or omission.

4. Certified copies of the judgment, decree or order shall be furnished to the parties on application to the Court, and at their expense.

5. Every decree passed or order made by the Court shall be drawn up in the Registry and be signed by the Registrar and sealed with the Seal of the Court, and shall bear the same date as the judgment in the suit or appeal.

6. The decree passed or order made by the Court in every appeal, and any order for costs in connection with the proceedings therein, shall be transmitted by the Registrar to the Court or tribunal from which the appeal was brought, and steps for the enforcement of such decree or order shall be taken in that court or tribunal in the way prescribed by law.

7. Orders made by the court in other proceedings, and any orders made as to the costs of, and incidental to, such proceedings, shall be transmitted by the Registrar to the Judicial or other authority concerned and steps for the enforcement of such orders shall be taken by that authority in the way prescribed by law.

8. In cases of doubt or difficulty with regard to a decree or order made by the Court, the Registrar shall, before issuing the draft, submit the same to the Judge in Chambers.

9. Where a draft of any decree or order is required by the parties to be settled in their presence, the Registrar shall, by notice

in writing, appoint a time for settling the same and the parties shall attend the appointment and produce their briefs and such other documents as may necessary to enable the draft to be settled.

10. Where any party is dissatisfied with the decree or order as settled by the Registrar, the Registrar shall not proceed to complete the decree or order without allowing that party sufficient time to apply by motion to the Court.

## ORDER XI

### Constitution of Division Courts

1. Subject to the other provisions of these Rules, every cause, appeal or matter shall be heard by a Bench consisting of not less than three Judges nominated by the Chief Justice.

2. Where in the course of the hearing of any cause, appeal or other proceeding, the Bench considers that the matter should be dealt with by a larger Bench, it shall refer the matter to the Chief Justice, who shall thereupon constitute such a Bench for the hearing of it.

# PART II

## Appellate Jurisdiction

## ORDER XII

### Civil Appeals

*Appeal on certificate by High Court*

1. Subject to any special directions which the Court may give in any particular case, the provisions of Order XLV of the Code, so far as may be applicable, and of any rules made for the purpose by the High Court concerned, shall apply in relation to appeals preferred under Articles 132 (1), 133 (1) and 135 of the Constitution.

2. An appellant who has obtained a certificate from the High Court may, at any time prior to the making of an order admitting the appeal, withdraw the appeal on such terms as to costs and otherwise as the High Court may direct.

3. Where an appellant, having obtained a certificate from the High Court, fails to furnish the security or make the deposit required, that Court may, on its own motion, or on application in that behalf made by the respondent, cancel the certificate and may give such directions as to the costs of the appeal and the security entered into by the appellant as it shall think fit or make such further or other order as the justice of the case requires.

4. Where an appellant whose appeal has been admitted desires, prior to the dispatch of the Record to this Court, to withdraw his appeal, the High Court may, upon an application in that behalf made by the appellant, grant him a certificate to the effect that the appeal has been withdrawn, and the appeal shall thereupon be deemed, as from the date of such certificate, to stand dismissed without an express order of this Court, and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the High Court may think fit to direct.

5. Where an appellant whose appeal has been admitted fails to show due diligence in taking all necessary steps in connection with the preparation of the Record, the High Court may, either on its own motion, or on the application of the respondent, call upon the appellant to show cause why a certificate should not be issued that the appeal has not been effectually prosecuted by the appellant, and if the High Court sees fit to issue such a certificate, the appeal shall be deemed, as from the date of such certificate, to stand dismissed for non-prosecution without an express order of this Court, and the costs of the appeal on such terms as to costs and otherwise as the High Court may direct, such manner as the High Court thinks fit to direct.

6. Where there are two or more appeals arising out of the same matter, and the High Court is of the opinion that it would be for the convenience of this Court and all parties concerned that the appeals should be consolidated, the High Court may direct the appeals to be consolidated and make such order for security of costs as the justice of the case requires.

7. The liability of the parties to pay court-fee in this Court, unless otherwise ordered, shall not be effected by any order for consolidation of appeals made by the High Court or by this Court.

## ORDER XIII

### Appeals by Special Leave

1. A petition for special leave to appeal shall be lodged in the Court within three months from the date of the refusal of leave to appeal by the High Court, or within three months from the date of the judgment or order sought to be appealed from;

Provided that the Court may for sufficient cause shown extend the time.

2. The petition shall state succinctly and clearly all such facts as it may be necessary to state in order to enable the Court to determine whether such leave ought to be granted, and shall be signed by an Advocate.

3. The petitioner shall lodge at least ten copies of his petition, together with a certified copy of the judgment sought to be appealed from and the affidavit in support thereof prescribed by rule 4 of Order XVII.

4. Unless a caveat as prescribed by rule 2 of Order XVII has been lodged by the other parties who appeared in the court below, the petitioner shall also lodge an affidavit of service of notice of the intended application upon such parties, or their agents, and, on demand, shall furnish to such parties, at their expense, copies of all or any of the documents filed by him in the Court.

5. In urgent cases, when the Court is in vacation. an application for special leave to appeal may be heard and disposed of by a single Judge.

6. Where the Court grants special leave to appeal, it may in its order specify the amount of the security for costs (if any) to be lodged by the petitioner, and the time within which such security is to be lodged, and, unless the circumstances of a particular case render such a course unnecessary, provide for the expeditious transmission of the printed Record by the Registrar of the Court concerned or by other authority, to the Registrar of this Court and for such further matters as the justice of the case may require. Unless the Court specially directs otherwise, any security for costs to be furnished by the petitioner shall be lodged in the court or tribunal from whose judgment or decision special leave to appeal has been granted, and that court or tribunal shall deal with such security in accordance with the directions contained in the order of the Court when determining the appeal.

7. After the grant of special leave to appeal by the Court, the Registrar shall transmit a certified copy of the order to the Court or tribunal appealed from.

8. On receipt of the said order, the court or tribunal appealed from shall, in the absence of any special directions in the order act in accordance with the provisions contained in Order XLV of the Code, so far as applicable.

9. Where the appellant who has obtained special leave to appeal by an order of this Court, fails to have the printed Record transmitted to the Registrar of this Court with due diligence, the Registrar of this Court shall call upon the appellant to explain his default, and if no explanation is offered, or if the explanation offered is, in the opinion of the said Registrar, insufficient, the said Registrar may issue a summons to the appellant calling upon him to show cause before this Court at a time to be specified in the said summons why the special leave to appeal granted should not be rescinded. The respondent shall be entitled to be heard before this Court in the matter of the said summons and to ask for his costs and such other relief as he may be advised. The Court may, after considering the matter of the said summons, rescind the grant of special leave to appeal, or give such other directions therein as the justice of the case may require.

10. Where security is required to be furnished in this Court, it shall be given to the Registrar or to such other officer as the Court may specially direct, and the Court may permit or order him to assign the same to any other person for the purpose of enforcing it upon such terms as the Court may think fit.

11. Where the appellant has lodged security for the respondent's costs of an appeal in the Registry of the Court, the Registrar shall deal with such security in accordance with the directions contained in the Court's order determining the appeal.

12. Save as otherwise provided by the rules contained in this Order, the provisions of Order XII and Orders XV to XX shall apply *mutatis mutandis* to petitions for special leave to appeal.

## ORDER XIV.

### Special Leave to Appeal *in forma pauperis.*

1. A petition for special leave to appeal as a pauper shall be made to the Court.

2. The rules contained in Order XIII shall apply *mutatis mutandis* to petitions for special leave to appeal in *forma pauperis*, but in addition to the affidavit referred to in rule 3 of the said Order every such petition shall be accompanied by an affidavit from the petitioner stating that he is not entitled to property worth Rs. 100 other than his necessary wearing apparel and his interest in the subject-matter of the intended appeal, and that he is unable to provide sureties and pay court fees, and also by a certificate of counsel that the petitioner has reasonable ground of appeal.

3. Where a petitioner obtains special leave of the Court to appeal in *forma pauperis*, he shall not be required to pay court fees or to lodge security for the costs of the respondent.

4. In granting or refusing special leave to appeal as a pauper, the Court shall ordinarily follow the principles set out in the proviso to r. 1 of Order XLIV of the Code.

5. Where the appellant succeeds in the appeal, the Registrar shall calculate the amount of court fees which would have been paid by the appellant if he had not been permitted to appeal as a pauper and incorporate it in the decree or order of the Court; such amount shall be recoverable by the Government of India from any party ordered by the Court to pay the same, and shall be the first charge on the subject-matter of the appeal.

6. Where the appellant fails in the appeal or is dispaupered, the Court may order the appellant to pay the court fees which would have been paid by him if he had not been permitted to appeal as a pauper.

7. The Government of India shall have the right at any time to apply to the Court to make an order for the payment of court fees under rules 5 and 6 above.

8. All matters arising between the Government of India and any party to the appeal under the three preceding rules shall be deemed to be questions arising between the parties to the appeal.

9. In every pauper appeal the Registrar shall, after the disposal thereof, send to the Attorney-General for India a memorandum of the Court fees payable by the pauper.

10. No appeal begun or carried on by a pauper appellant shall be compromised or discontinued without the leave of the Court.

## ORDER XV.

### Preparation of Record, etc.

1. As soon as the appeal has been admitted, whether by an order of the court appealed from or by an order of this Court granting special leave to appeal, the appellant shall, without delay, take all necessary steps to have the printed Record transmitted to the Registrar of this Court, and the Registrar of the court appealed from shall, with all convenient speed, certify to the Registrar of this Court that the respondent has received notice or is otherwise aware, of the order of the court appealed from admitting the appeal, or of the order of this Court giving the appellant special leave to appeal.

2. Whenever the decision of the appeal is likely to turn exclusively on a question of law, the appellant may, with the sanction of the court appealed from print such parts only of the Record as may be necessary for the discussion of the same.

3. The Registrar of the Court appealed from, as well as the parties and their agents shall endeavour to exclude from the Record all documents (more particularly such as are merely formal) that are not relevant to the subject matter of the appeal, and, generally, to reduce the bulk of the Record as far as practicable, taking special care to avoid the duplication of documents and the unnecessary repetition of headings and other merely formal parts of documents; but the documents omitted to be printed shall be enumerated in a typewritten list to be transmitted with the Record.

4. Where in the course of the preparation of a Record one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists upon its being included, the Record, as finally printed shall, with a view to the subsequent adjustment of the costs of and incidental to such document, indicate, in the index of papers, or otherwise, the fact that, and the party by whom, the inclusion of the document was objected to.

5. The Record shall be prepared and printed under the supervision of the court appealed from, in accordance with the rules contained in First Schedule hereto, and the parties may submit any disputed question arising in connection therewith to the decision of that court, and it shall give such directions thereon as the justice of the case may require.

6. When the Record has been made ready, the Registrar of the court appealed from shall—

(i) at the expense of the appellant transmit to the Registrar of this Court such number of copies as the Court may direct, or, in the absence of any special direction in this behalf, 25 copies of such Record, one of which copies he shall certify to be correct by signing his name on, or initialling, every eighth page thereof and by affixing thereto the Seal of the court appealed from;

(ii) give notice of the dispatch of the Record to the parties; and

(iii) send to the Registrar of this Court a certificate as to the date or dates on which the notice under the preceding sub-clause (ii) has been served.

7. As soon as the Record is received in the Registry of this Court, it shall be registered in the said Registry with the date of arrival, and the names of the parties. Appeals shall be numbered consecutively in each year in the order in which the Records are received in the Registry.

8. The parties shall be entitled to inspect the Record and to extract all necessary particulars therefrom for the purpose of entering an appearance.

9. Each party who has entered an appearance shall be entitled to receive, for his own use, four copies of the Record.

10. Subject to any special direction from the Court to the contrary, the costs of, and incidental to, the printing of the Record shall form part of the costs of the appeal, but the costs of, and incidental to, the printing of any document objected to by one party, in accordance with rule 4 above, shall if such document is found, on the taxation of costs, to be unnecessary or irrelevant, be disallowed to, or borne by, the party insisting on including the same in the Record.

## ORDER XVI.

### Appellant's Appearance and Lodging of Petition of Appeal.

1. The appellant shall enter an appearance before taking any step in the prosecution of the appeal, and after entering such appearance shall forthwith give notice thereof to the respondent.

2. The appellant shall lodge his petition of appeal within a period of 30 days from the date of the service of notice of dispatch of the Record by the Registrar of the court appealed from.

3. The petition of appeal shall be lodged in the form prescribed by rule 1 of Order XVII hereinafter contained. It shall recite succinctly and, as far as possible, in chronological order, the principal steps in the proceedings leading up to the appeal from the commencement thereof down to the admission of the appeal, but shall not contain argumentative matter or travel into the merits of the case.

4. Where a party desires to appeal on grounds which can be raised only with the leave of the Court the petition of appeal shall be accompanied by a separate petition indicating the groeunds so proposed to be raised and praying for special leave to appeal on those grounds, and the petition for special leave to appeal shall, unless the Court otherwise directs, be heard at the same time as the appeal.

5. The appellant shall, after lodging his petition of appeal, serve a copy thereof without delay on the respondent, as soon as the latter has entered an appearance, and shall endorse such copy with the date of the lodgment.

WITHDRAWAL OF APPEAL.

6. Where an appellant, who has not lodged his petition of appeal, desires to withdraw his appeal, he shall give notice in writing to that effect to the Registrar of this Court, and the said Registrar shall, with all convenient speed after receipt of such notice, by letter notify the Registrar of the court appealed from that the appeal has been withdrawn. The said appeal shall thereupon stand dismissed as from the date of the said letter without further order, and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the court appealed from may think fit to direct.

7. Where an appellant, who has lodged his petition of appeal, desires to withdraw his appeal, he shall present a petition to that effect to the Court. On the hearing of any such petition a respondent may apply to the Court for his costs.

NON-PROSECUTION OF APPEAL: CHANGE OF PARTIES.

8. If an appellant fails to take any steps in the appeal within the time fixed for the same by these Rules, or if, no time is specified, it appears to the Registrar that he is not prosecuting his appeal with

due diligence, the Registrar shall call upon him to explain his default and, if no explanation, or no explanation which appears to the Registrar to be sufficient, is offered, he may issue a summons calling upon him to show cause to the Court why the appeal should not be dismissed for want of prosecution.

9. The Registrar shall send a copy of the summons mentioned in the last specified rule to every respondent who has entered an appearance.

10. The Court may, after hearing the parties, dismiss the appeal for non-prosecution or give such other directions thereon as the justice of the case may require.

11. An appellant whose appeal has been dismissed for non-prosecution may, within thirty days of the order, present a petition praying that the appeal may be restored and the Court may, after giving notice of such application to the respondent, restore the appeal if good and sufficient cause is shown putting the appellant on terms as to costs or otherwise as it thinks fit or pass such other order as the circumstances of the case and the ends of justice may require.

12. Where at any time between the admission of an appeal and the dispatch of the Record to this Court, the Record becomes defective by reason of the death, or change of status, of a party to the appeal, or for any other reason, the court appealed from may, notwithstanding the admission of the appeal, on an application in that behalf made by any person interested, grant a certificate showing who, in the opinion of the said Court, is the proper person to be substituted or entered on the Record in place of, or in addition to, the party who has died, or undergone a change of status, or in regard to whom a representation has been made, and the name of such person shall thereupon be deemed to be so substituted or entered on the Record as aforesaid without express order of this Court.

13. If, in the opinion of the Court appealed from, there has been undue delay in making this application, the said court may order the appellant, or the party interested, to take all necessary steps to perfect the Record within such time as the said court may direct, and, if he fails to comply with such order, the said court may call upon him to show cause why a certificate should not be issued that the appeal has not been prosecuted, and if the said court sees fit to issue such a certificate the appeal shall be deemed, as from the date of such certificate, to stand dismissed for non-prosecution without express order of this Court, and the costs of the appeal and the

security entered into by the appellant shall be dealt with in such manner as the court appealed from may think fit to direct.

19. Where the Record subsequently to its dispatch to this Court becomes defective by reason of the death, or change of status, of a party to the appeal, or for any other reason, the Court appealed from shall, upon an application in that behalf made by any person interested, cause a certificate to be transmitted to the Registrar of this Court showing who, in the opinion of the Court appealed from, is the proper person to be substituted, or entered on the Record, in place of, or in addition to, the party who has died or undergone a change of status, or in regard to whom a representation has been made. If in the opinion of the court appealed from, there has been undue delay in making this application, the said court may order the appellant, or the party interested, to take all necessary steps to perfect the Record within such time as the said court may direct, and if he fails to comply with such order, the said court shall report the matter to the Registrar of this Court.

15. A petition for an Order of Revivor or Substitution shall be accompanied by a certificate from the court appealed from showing who, in the opinion of the said court, is the proper person to be substituted, or entered, on the Record in place of, or in addition to the party on record.

APPEARANCE BY RESPONDENT.

16. The respondent may enter an appearance at any time between the transmission of the Record by the court appealed from and the expiry of the period covered by the "Case Notice" given to him by the appellant under rule 6 of Order XVIII.

17. The respondent shall forthwith after entering an appearance given notice thereof to the appellant.

18. When there are two or more respondents, and only one, or some, of them enter an appearance, the appearance Form shall set out the names of the appearing respondents.

19. Two or more respondents may, at their own risk as to costs, enter separate appearances in the same appeal.

20. A respondent who has not entered an appearance shall not be entitled to receive any notices relating to the appeal from the Registrar of the Court, nor be allowed to lodge a Case in the appeal,

21. Where a respondent fails to enter an appearance in an appeal, the following rules shall, subject to any special order of the Court to the contrary, apply.

(*a*) If the non-appearing respondent was a respondent at the time when the appeal was admitted, whether by an order of the court appealed from or by an order of this Court giving the appellant special leave to appeal, and it appears from the terms of the said order, or otherwise from the Record, or from a certificate of the Registrar of the court appealed from, that the said non-appearing respondent has received notice, or was otherwise aware of the order of the court appealed from admitting the appeal, or of the order of this Court giving the appellant special leave to appeal, and has also received notice, or was otherwise aware, of the dispatch of the Record to this Court, the appeal may, if all other conditions of its being set down are satisfied, be set down *ex parte* as against the said non-appearing respondent at any time after the expiration of sixty days from the date of the lodging of the petition of appeal;

(*b*) If the non-appearing respondent was made a respondent by an order of this Court subsequent to the admission of the appeal, and it appears from the Record, or from a Supplementary Record, or from a certificate of the Registrar of the Court appealed from, that the said non-appearing respondent has received notice, or was otherwise aware of any intended application to bring him on the record as a respondent, the appeal may, if all other conditions of its being set down are satisfied, be set down *ex parte* as against the said non-appearing respondent at any time after the expiration of sixty days from the date on which he shall have been served with a copy of the order of this Court bringing him on the Record as a respondent:

Provided that where it is shown to the satisfaction of the Registrar of this Court, by affidavit or otherwise, either that an appellant has made every reasonable endeavour to serve a non-appearing respondent with the notices mentioned in clauses (*a*) and (*b*) respectively and has failed to effect such service or that it is not the intention of the non-appearing respondent to enter an appearance to the appeal, the appeal may, without further order in that behalf, and at the risk of the appellant, be proceeded with *ex parte* as against the said non-appearing respondent.

## ORDER XVII.

### Petitions Generally.

All petitions shall consist of paragraphs numbered consecutively and shall be fairly and legibly written, typewritten or lithographed on one side of standard petition paper, demy foolscap

size, or on paper ordinarily used in High Courts for transcribing petitions, with quarter margin, and endorsed with the name of the court appealed from, the full title and Supreme Court number of the appeal to which the petition relates, or the full title of the petition (as the case may be) and the name and address of the Agent (if any) of the petitioner. Unless the petition is a Consent Petition within the meaning of rule 8 at least ten copies thereof shall be lodged.

2. Where a petition is expected to be lodged, or has been lodged, which does not relate to any pending appeal of which the Record has been registered in the Registry of this Court, any person claiming a right to appear before this Court on the hearing of such petition may lodge a Caveat in the matter thereof, and shall thereupon be entitled to receive from the Registrar notice of the lodging of the petition, if at the time of the lodging of the Caveat such petition has not yet been lodged, and, if and when the petition has been lodged, to require the petitioner to serve him with a copy of the petition and to furnish him, at his own expense, with copies of any papers lodged by the petitioner in support of his petition. The Caveator shall forthwith, after lodging his Caveat, give notice thereof to the petitioner, if the petition has been lodged.

3. Where a petition is lodged in the matter of any pending appeal of which the Record has been registered in the Registry of this Court, the petitioner shall serve any party who has entered an appearance in the appeal, with a copy of such petition and the party so served shall thereupon be entitled to require the petitioner to furnish him, at his own expense, with copies of any papers lodged by the petitioner in support of his petition.

4. A petition not relating to any appeal of which the Record has been registered in the Registry of this Court, and any other petition containing allegations of fact which cannot be verified by reference to the registered Record or any certificate or duly authenticated statement of the court appealed from, shall be supported by affidavit. Where the petitioner prosecutes his petition in person, the said affidavit shall be sworn by the petitioner himself and shall state that, to the best of the deponent's knowledge, information and belief, the allegations contained in the petition are true. Where the petitioner is represented by an Agent, the said affidavit may be sworn by such Agent and shall besides stating that, to the best of the deponent's knowledge, information and belief, the allegations contained in the petition are true, show how the deponent obtained his instructions and the information enabling him to present the petition.

5. The Registrar may refuse to receive a petition on the grounds that it discloses no reasonable cause of appeal, or is frivolous, or contains scandalous matter but the petitioner may appeal, by way of motion, from such refusal to the Court.

6. As soon as a petition and all necessary documents are lodged, the petition shall thereupon be deemed to be set down.

7. Subject to the provisions of the next following rule, the Registrar shall, as soon as the Court has appointed a day for the hearing of a petition, notify all parties concerned of the day so appointed.

8. Where the prayer of a petition is consented to in writing by the opposite party, or where a petition is of a formal and non-contentious character, the Court may, if it thinks fit, make an order thereon, without requiring the attendance of the parties, and the Registrar shall not in any such case issue notice as provided by the last preceding rule, but shall, with all convenient speed, after the Court has made its order, notify the parties that the order has been made and of the date and nature of such order.

9. A petitioner who desires to withdraw his petition shall give notice in writing to that effect to the Registrar. Where the petition is opposed, the opponent shall, subject to any agreement between the parties to the contrary, be entitled to apply to the Court for his costs, but where the petition is unopposed, or where, in the case of an opposed petition, the parties have come to an agreement as to the costs of the petition, the petition may, if the Court think fit, be disposed of in the same way *mutatis mutandis* as a Consent Petition under the provisions of the last preceding rule.

10. Where a petitioner unduly delays bringing a petition to a hearing, the Registrar shall call upon him to explain the delay, and if no explanation is offered, or if the explanation offered is, in the opinion of the Registrar, insufficient, the Registrar may, after notifying all interested parties, place the petition before the Court for such directions as the Court may think fit to give thereon.

11. At the hearing of a petition not more than one counsel shall be heard on a side.

## ORDER XVIII.

### Lodging of Case and Subsequent Proceedings.

1. No party to an appeal shall be entitled to be heard by the Court unless he has previously lodged his Case in the appeal; nor shall he be allowed to inspect the Case of the opposite party or obtain a copy thereof from the Registry until he has lodged his own case:

Provided that where a respondent who has entered an appearance does not desire to lodge a Case in the appeal, he may give the Registrar of the Court notice in writing of his intention not to lodge any Case, while reserving his right to address the Court on the question of costs.

2. Each party shall lodge not less than twelve copies of his Case, printed or neatly typed with quarter margin, on one side of paper of the same size and quality as that used in the printing of the Record in the Court below.

3. The case shall consist of paragraphs numbered consecutively and shall state, as concisely as possible, the circumstances out of which the appeal arises, the contentions to be urged by the party lodging the same, and the reasons of appeal. References by page and line to the relevant portions of the Record as printed shall, so far as practicable, be printed or typed in the margin, and care shall be taken to avoid, as far as possible, the reproducing in the Case of long extracts from the Record. The Taxing Officer in taxing the costs of the appeal shall, either of his own motion, or at the instance of the opposite party enquire into any unnecessary prolixity in the Case, and shall disallow the costs occasioned thereby.

4. Two or more respondents may, at their own risk as to costs, lodge separate Cases in the same appeal.

5. Each party shall, after lodging his Case, forthwith give notice thereof to the other party.

6. Subject as hereinafter provided, the party who lodges his Case first shall within three clear days from the date on which he has given the other party the notice prescribed by the last preceding rule, serve such other party if the latter has not in the meantime lodged his Case with a "Case Notice" requiring him to lodge his Case within thirty days from the date of the service of the said Case Notice and informing him that, in default of his so doing, the appeal will be set down for hearing *ex parte* as against him, and if the other

party fails to comply with the said Case Notice, the party who has lodged his Case may, at any time after the expiration of the time limited by the said Case Notice for the lodging of the Case, lodge an affidavit of service (which shall set out the terms of the said Case Notice), and the appeal shall thereupon, if all other conditions of its being set down are satisfied, be set down *ex parte* as against the party in default.

Provided that no Case Notice shall be served until after the transmission of the Record by the Court appeal from

7. Subject to the provisions of rule 21 of Order XVI and of the last preceding rule, an appeal shall be set down *ipso facto* as soon as the Cases on both sides are lodged, and the parties shall thereupon exchange the Cases by handing one another, either at the offices of one of the Agents or in the Registry of the Court, six copies of their respective Cases.

8. As soon as an appeal is set down, the appellant shall attend at the Registry and obtain ten copies of the Record and Cases to be bound for the use of the Court at the hearing. The copies shall be bound in cloth or in one-fourth leather with paper sides, and six leaves of blank paper shall be inserted before the appellant's case. The front cover shall bear a printed label stating the title and Supreme Court number of the appeal, the contents of the volume, and the names and addresses of the Agents. The several documents, indicated by incuts, shall be arranged in the following order.

1. Appellant's case;
2. Respondent's cases;
3. Record (if in more than one part, showing the separate parts by incuts, all parts being paged at the top of the page);
4. Supplemental Record (if any); and the short title and Supreme Court number of the appeal shall also be shown on the back.

9. The appellant shall lodge the bound copies not less than ten clear days before the date fixed for the hearing of the appeal.

## ORDER XIX.

### Hearing of Appeals.

1. All appeals filed in the Registry shall, as far as possible, be heard in the order in which they are set down.

2. The Registrar shall, subject to the provisions of rule 20 of Order XVI, notify the parties to the appeal of the day fixed for the hearing.

3. Subject to the directions of the Court, at the hearing of an appeal not more than two Advocates shall be heard on a side.

4. The appellant shall not, without the leave of the Court, rely at the hearing on any grounds not specified in the petition or the case filed by him.

5. Where the Court, after hearing an appeal, decides to reserve its judgment thereon the Registrar, shall notify the parties through their Agents of the day appointed by the Court for the delivery of the judgment.

6. A respondent may within the time limited for appearance deliver to the Registrar and to the appellant a notice in writing consenting to the appeal, and the Court may thereupon if it thinks fit, make an order upon the appeal without requiring the attendance of the person so consenting.

## ORDER XX.

### Miscellaneous.

1. The filing of an appeal shall not prevent execution of the decree or order appealed against, but the Court, may, subject to such terms and conditions as it may think fit to impose, order a stay of execution of the decree or order, or order a stay of proceedings, in any case under appeal to the Court.

2. A respondent may apply for the summary determination of appeal on the ground that it is frivolous or vexatious or brought for the purpose of delay, and the Court may make such order thereon as it thinks fit.

3. A party to an appeal who appears in person shall furnish the Registrar with an address for service and all documents left at that address, or sent by registered post to that address, shall be deemed to have been duly served.

## ORDER XXI.

### Criminal Appeals.

Criminal appeals under Article 134 (1) (*a*) and (*b*) of the Constitution or under any other provision of law shall be lodged in this Court within sixty days from the date of the judgment, final order or

sentence appealed from and under Article 132 (i) and 134 (i) (*c*) within thirty days from the date of the certificate granted by the High Court.

2. The provisions contained in Order XIII in relation to applications for special leave in civil proceedings shall apply *mutatis mutandis* to applications for special leave to appeal in criminal matters.

3. The appeal shall be in the form of a petition in writing, which shall be accompanied by a certified copy of the judgment or order or sentence appealed against.

4. The appellant, if he is in jail, may present his petition of appeal and the accompanying documents to the officer-in-charge of the jail, who shall forward them to the Registrar of this Court.

5. On receipt of the petition of appeal, the Registrar shall cause notice of the appeal to be given to the Attorney-General for India or Advocate-General of the State concerned, or to both, as the case may require, and, in cases where the appeal is by the Government to the accused, and shall also furnish the Attorney-General for India and/or the Advocate-General concerned or the accused, as the case may be, with a copy of the petition of appeal.

6. The Registrar of the Court shall thereafter send a copy of the petition of appeal to the High Court concerned for its record. The High Court shall then arrange for the printing of the record in the case and for the transmission of the printed record to the Registrar of this Court with all convenient speed. In the preparation of the printed record, the High Court may include the printed paper book prepared for its own use at an earlier stage.

7. As soon as the record has been got ready, the Registrar of the High Court shall despatch to the Registrar of this Court not less than fifteen copies. In cases falling under Article 134 (i) (*a*) and (*b*) the printed record shall be despatched to this Court within a period of forty-five days after the receipt of the intimation from the Registrar of this Court of the filing of the petition of appeal.

8. In a proper case, the Court may, in its discretion, direct the engagement of an Advocate for an accused person at the cost of the Government. In such a case the engagement of an Agent may be dispensed with.

9. After the appeal has been disposed of, the Registrar of the Court shall, with utmost expedition, send a copy of the Court's judgment or order to the High Court concerned.

10. Pending the disposal of any appeal under these Rules, the Court may order that the execution of the sentence or order appealed against be stayed on such terms as the Court may think fit.

11. So far as may be, the proceeding Orders in this Part of these Rules shall, with the necessary modifications and adaptations, apply to criminal appeals under this order:

Provided that in criminal proceedings no security for casts shall be required to be deposited, and no Court fee, process fee, or search fee shall be charged, and no copying charges shall be made except for copies other than the first, to any party to the proceedings.

## PART III.

### Original Jurisdiction.

### ORDER XXII.

PARTIES TO SUITS.

1. Two or more plaintiffs may join in one suit in whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist.

2. Two or more defendants may be joined in one suit against whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist.

3. (1) The Court may at any such stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any plaintiff or defendant improperly joined be struck out, and that the name of any plaintiff or defendant who ought to have been joined, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

(2) No person shall be added as a plaintiff without his consent.

4. Where it appears to the Court that any causes of action joined in one suit cannot conveniently be tried or disposed of together the Court may order separate trials or make such other order as may be expedient.

5. Where it appears to the Court that any joinder of plaintiffs or defendants may embarrass or delay the trial of the suit, the Court may order separate trials or make such order as may be expedient.

## ORDER XXIII.

### PLAINTS.

1. Every suit shall be instituted by the presentation of a plaint.

2. A plaint shall be presented to the Registrar, and all plaints shall be registered and numbered by him according to the order in which they are presented.

3. Every plaint shall comply with the rules contained in Order XXVI of these Rules so far as they are applicable.

4. A plaint shall contain the following particulars :—

(*a*) the names of the plaintiff and of the defendant ;

(*b*) the facts constituting the cause of action and when it arose ;

(*c*) the facts showing that the Court has jurisdiction ;

(*d*) the declaration or relief which the plaintiff claims.

5. The plaintiff shall endorse on the plaint, or annex thereto, a list of the documents (if any) which he has produced along with it and the Registrar shall sign the list if on examination he finds it to be correct.

6. The plaint shall be rejected :—

(*a*) where it does not disclose a cause of action ;

(*b*) where the suit appears from the statement in the plaint to be barred by any law.

7. Where a plaint is rejected the Court shall record an order to that effect with the reasons for the order.

8. The rejection of the plaint shall not of itself preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action.

9. Where a plaintiff sues upon a document in his possession or power, he shall produce it to the Registrar when the plaint is presented and shall at the same time deliver the document or a copy thereof to be filed with the plaint.

10. Where the plaintiff relies on any other documents (whether in his possession or power or not) as evidence in support of his claim, he shall enter such documents in a list to be added or annexed to the plaint.

11. Where any such document is not in the possession or power of the plaintiff, he shall, if possible, state in whose possession or power it is.

12. A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint, and which is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence at the hearing of the suit.

## ORDER XXIV.

### Issue and Service of Summons.

1. When a suit has been duly instituted a summons shall be issued to the defendant to appear and answer the claim.

2. Every summons shall be signed by the Registrar, and shall be sealed with the Seal of the Court.

3. Every summons shall be accompanied by a copy of the plaint.

4. The summons shall be served by being sent by registered post to the Attorney-General for India or the Advocate-General for the State, as the case may be, or to an agent of the defendant empowered to accept service.

5. There shall be endorsed on every summons a notice requiring the defendant to enter an appearance within twenty-eight days after the summons has been served.

6. A defendant shall enter the appearance by filing in the Registry a memorandum in writing containing the name and place of business of his Agent, if any, and in default of appearance being entered within the time mentioned in the summons, or as hereinafter provided, the suit may be heard *ex parte*.

7. The defendant shall forthwith give notice of his having entered an appearance to the plaintiff.

8. The plaintiff shall within fourteen days after the defendant has entered an appearance take out a summons for directions returnable before the Judge in Chambers, and the Judge shall on the hearing of the summons give such directions with respect to pleadings, interrogatories, the admission of decuments and facts, the discovery, inspection and production of documents and such other interlocutory matters as he may think expedient.

## ORDER XXV.

### Written Statement, Set-off and Counter-Claim.

1. It shall not be sufficient for a defendant in his written statement to deny generally the facts alleged by the plaintiff but he shall deal specifically with each allegation of fact or which he does not admit the truth, except damages.

2. Where a defendant denies an allegation of fact he shall not do so evasively but shall answer the point of substance.

3. Each allegation of fact in the plaint, if not denied specifically or by necessary implication, or not expressly stated to be not admitted in the pleading of the defendant, shall be taken to be admitted, but the Court may in its discretion require any fact so admitted to be proved otherwise than by such admission.

4. Where the defendant claims to set off against a demand by the plaintiff any ascertained sum of money, he may in his written statement, but not afterwards without the leave of the Court, state the grounds of his claim and the particulars of the debt sought to be set off.

5. The written statement containing the particulars mentioned in the last preceding rule shall have the same effect as a plaint in a cross-suit so as to enable the Court to pronounce a final judgment in respect both of the original claim and of the set-off.

6. The rules relating to a written statement by a defendant shall apply to a written statemeut by a plaintiff is answer to a claim of set-off.

7. No pleading subsequent to the written statement of a defendant other than by way of defence to a set-off shall be presented except by the leave of the Court and upon such terms as the Court may think fit, but the Court may at any time require a written statement or additional written statement from any of the parties and may fix a time for presenting the same.

8. Where any party from whom a written statement is so required fails to present the same within the time fixed by the Court, the Court may pronounce judgment against him, or make such orders in relation to the suit as it thinks fit.

9. The defendant, in addition to his right of pleading a set-off, may set up by way of counter-claim against the claims of the plaintiff any right or claim in respect of a cause of action accruing to him either before or after the filing of the suit but before he has delivered his defence and before the time limited for delivering his defence has expired, whether that counter-claim sounds in damages or not, and the counter-claim shall have the same effect as a cross-suit, so as to enable the Court to pronounce a final judgment in the same suit, both on the original claim and on the counter-claim.

10. The Court may if it is in the opinion the counter-claim cannot be disposed of in the pending suit or ought not to be allowed, refuse permission to the defendant to avail himself thereof, and require him to file a separate suit.

## ORDER XXVI.

### PLEADINGS GENERALLY.

1. In this Order "pleading" means plaint or written statement.

2. Every pleading shall contain, and contain only, a statement in a concise form of the material facts on which the party pleading relies, but not the evidence by which those facts are to be proved, nor any argumentative matter, and shall be divided into paragraphs numbered consecutively.

3. Dates, sums and numbers shall be expressed in figures.

4. A further and better statement of the nature of the claim or defence, or further and better particulars of any matter stated in any pleading may in all cases be ordered, upon such terms, as to costs and otherwise, as may be just.

5. Wherever the contents of any document are material, it shall be sufficient to state the effect thereof as briefly as possible, without setting out the whole or any part thereof, unless the precise words of the document or any part thereof are material.

6. Every pleading shall be signed by, or by an Advocate on behalf of, the Attorney-General for India or by, or by an Advocate on behalf of, the Advocate-General for the State, as the case may be.

7. The Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading which may be unnecessary or scandalous or which may tend to prejudice or embarrass or delay the trial of the suit, or which contravenes any of the provisions of this Order.

8. The Court may at any stage of the proceedings allow either party to amend his pleadings in such manner and on such terms as may be just, but only such amendments shall be made as may be necessary for the purpose of determining the real question in controversy between the parties.

9. If a party who has obtained an order for leave to amend does not amend accordingly within the time limited for that purpose by the order, or if no time is thereby limited then within fourteen days from the date of the order, he shall not be permitted to amend after the expiration of such limited time or of such fourteen days, as the case may be, unless the time is extended by the Court.

10. Amendments of pleadings made only for the purpose of rectifying a clerical error may be made on an order of the Registrar without notice, but unless otherwise ordered a copy of the order shall be served on all other parties.

## ORDER XXVII

### Discovery and Inspection

1. Order XI of the First Schedule to the Code shall apply with respect to discovery and inspection in suits instituted before the Court, except rules 5 and 23 of that Order.

2. Where the Court has made an order allowing one party to deliver interrogatories to other, those interrogatories shall be answered by such persons as the Court may direct.

3. No application for leave to deliver interrogatories shall be made by the defendant until after he has filed his written statement.

4. After an order has been made for the delivery of interrogatories one set of the interrogatories, as allowed, shall be annexed and served with the order upon the person to be interrogated.

5. The Court may, for sufficient reason, allow any affidavit to be sworn, on behalf of the party from whom discovery, production or inspection is sought, by any person competent to make the same.

6. Where any document is ordered to be deposited in Court a copy of the order and a schedule of the document shall be left in the Registry at the time when the deposit is made.

7. When the purpose for which any documents have been deposited in Court is satisfied, the party by whom they were deposited may, pending the suit, have them delivered out to him, if he has the consent in writing of the other party, or an order of the Court.

## ORDER XXVIII

### ADMISSIONS

Order XII in the First Schedule to the Code with respect to admissions shall apply.

## ORDER XXIX

### SUMMONING AND ATTENDANCE OF WITNESSES

1. The provisions of sections 28 and 32 of the Code shall apply to summonses to give evidence or to produce documents under these Rules.

2. Order XVI in the First Schedule to the Code with respect to the summoning and attendance of witnesses shall apply, with the exception of the proviso to sub-rule (3) of rule 10; and the words "(a) within the local limits of the Court's ordinary original jurisdiction, or (b) without such limits but" in rule 19.

## ORDER XXX

### Adjournments

Order XVII in the First Schedule to the Code with respect to adjournments shall apply, with the substitution in rule 2 of the words "in such manner as it thinks just" for the words "in one of the modes directed in that behalf by Order IX, or make such other order as it thinks fit".

## ORDER XXXI

### Hearing of the Suit

1. Rules 1, 2, 3, 16, 17, and 18 and of Order XVIII in the First Schedule to the Code with respect to the hearing of suits and examination of witnesses shall apply.

2. Witnesses in attendance shall be examined orally in open Court and their evidence taken down in shorthand in the form of question and answer by such officers of the Court as may be appointed for the purpose.

3. The transcript of the shorthand note shall be signed by the officer recording the note and shall be deemed the deposition of the witness and shall form part of the record.

4. The party to any suit or matter in which the evidence has been taken in shorthand, and the witness whose evidence has been taken, shall be entitled upon payment of the prescribed fee to be furnished with a certified copy of the transcript.

## ORDER XXXII

### Withdrawal and Adjustment of Suits

1. Rules 1, 2 and 3 of the Order XXIII in the First Schedule to the Code with respect to the withdrawal and adjustment of suits shall apply.

2. No new suit shall be brought in respect of the same subject-matter until the terms or conditions, if any, imposed by the order permitting the withdrawal of a previous suit or giving leave to bring a new suit have been complied with.

## ORDER XXXIII

### Payment into Court

Order XXIV in the First Schedule to the Code with respect to payment into Court shall apply.

## ORDER XXXIV

### Special Case

Rules 1, 3 and 5 of Order XXXVI in the First Schedule to the Code with respect to procedure by way of Special Case shall apply, except the words "which would have jurisdiction to entertain a suit, the amount or value of the subject-matter of which is the same as the amount or value of the subject-matter of the agreement" in sub-rule (1) of rule 3; the words "claiming to be interested as plaintiff or plaintiffs" to the end of sub-rule (2) of rule 3; and the words "and upon the judgment so pronounced a decree shall follow" in sub-rule (2) of rule 5.

# PART IV.

## ORDER XXXV

### Applications for Enforcement of Fundamental Rights

*(Article 32 of the Constitution)*

*Habeas Corpus*

1. An application for a writ of *Habeas Corpus* shall be filed in the Registry and shall be accompanied by an affidavit by the person restrained, stating that it is made at his instance and setting out the nature and circumstances of the restraint:

Provided that where the person restrained is unable owing to the restraint to make the affidavit, the application shall be accompanied by an affidavit to the like effect made by some other person, which shall state the reason why the person restrained is unable to make the affidavit himself.

2. The application shall be heard by a Division Court, except in vacation, when it may be heard by a Single Judge.

3. If the Court is of opinion that a *prima facie* case for granting the application is made out, a rule *nisi* shall be issued calling upon the person or persons against whom the order is sought, to

appear on a day to be named therein to show cause why such order should not be made and at the same time to produce in Court the body of the person or persons alleged to be illegally or improperly detained then and there to be dealt with according to law.

4. On the return day of such rule or on any day to which the hearing thereof may be adjourned, if no cause is shown or if cause is shown and disallowed, the Court shall pass an order that the person or persons improperly detained shal lbe set at liberty. If cause is allowed, the rule shall be discharged. The order for release made by the Court, or the Judge, shall be a sufficient warrant to any gaoler, public official, or other person for the release of the person under restraint.

5. In disposing of any such rule, the Court, may in its discretion make such order for costs as it may consider just.

## MANDAMUS, PROHIBITION, *CERTIORARI, QUO WARRANTO* ETC.

6. An application for direction or order or writ in the nature of mandamus, prohibition, *certiorari quo warranto* shall be filed in the Registry and shall be accompanied by a statement setting out the name and description of the applicant, the relief sought and the grounds on which it is sought, and by an affidavit verifying the facts relied on, and at least six copies of the said statement and affidavit shall be lodged in the Registry of the Court. The application shall be made by notice of motion.

7. Such application shall be heard by a Division Court, except in vacation, when it may be heard by a Single Judge. Unless the Court otherwise directs, there shall be at least eight clear days between the service of the notice of motion and the day named therein for the hearing of the motion.

8. Copies of the said statement shall be served with the notice of motion and every party to the proceedings shall supply to any other party, on demand and on payment of the proper charges, copies of the said affidavits.

9. The notice shall be served on all persons directly affected, and on such other persons as the Court may direct:

Provided that on the hearing of any such motion, any person who desires to be heard in opposition to the motion and appears to

the Court to be a proper person to be heard shall be heard, notwithstanding that he has not been served with the notice of motion and shall be liable to costs in the discretion of the Court if the order shall be made.

10. The Court may in such proceedings impose such terms as to costs and as to the giving of security as it thinks fit.

## PART V.

### ORDER XXXVI

SPECIAL REFERENCE UNDER ARTICLE 143 OF THE CONSTITUTION.

1. On the receipt by the Registrar of the order of the President referring a quesion of law or fact to the Court, the Registrar shall give notice to the Attorney-General for India to appear before the Court on a day specified in the notice to take the directions of the Court as to the parties who shall be served with notice of the Special Reference, and the Court may, if it considers it desirable, order that notice of the Special Reference shall be served upon such parties as may be named in the order.

2. The notice shall require all such parties served therewith as desire to be heard at the hearing of the Special Reference to attend before the Registrar on the day fixed by the order to take the directions of the Court with respect to statements of facts and arguments and with respect to the date of the hearing.

3. Subject to the provisions of this Order, the procedure on a Special Reference shall follow as nearly as may be the procedure in proceedings before the Court in the exercise of its original jurisdiction, but with such variations as may appear to the Court to be appropriate and as the Court may direct.

4. After the hearing of the Special Reference, the Registrar shall transmit to the President the Report of the Court thereon.

5. The Court may make such order as it thinks fit as to the costs of all parties served with notice under these Rules and appearing at the hearing of the Special Reference.

## PART VI

### ORDER XXXVII

REFERENCES UNDER ARTICLE 317 (1) OF THE CONSTITUTION.

1. On receipt by the Registrar of the order of the President referring to the Court a case for inquiry under Article 317 (1) of the Constitution, the Registrar shall give notice to the Chairman or member of the Public Service Commission concerned and to the Attorney-General for India or the Advocate-General of the particular State to appear before the Court on a day specified in the notice to take the directions of the Court in the matter of the inquiry. A copy of the charges preferred against him shall be furnished to the respondent along with the notice.

2. The Court may summon such witnesses as it considers necessary.

3. After the hearing of the Reference, the Registrar shall transmit to the President the Report of the Court.

4. No court-fees or process fees shall be payable in connection with any reference dealt with by the Court under this Order.

## PART VII

### ORDER XXXVIII

REVIEW.

1. The Court may review its judgment or order, but no application for review will be entertained except on the grounds mentioned in Order XLVII, rule 1, of the Code.

2. An application for review shall be filed with the Registrar, within thirty days after judgment is delivered in the appeal, cause or matter. It must briefly and distinctly state the grounds for review, and be accompanied by a certificate of counsel that it is supported by proper grounds.

# PART VIII

## ORDER XXXIX

### Costs.

1. Subject to the provisions of any Statute or of these Rules, the costs of and incidental to all proceedings shall be in the discretion of the Court.

2. Where it appears that the hearing of any suit or matter cannot conveniently proceed by reason of the neglect of the Agent of any party to attend personally, or by some proper person on his behalf, or of his omission to deliver any paper necessary for the use of the Court which ought to have been delivered, the Agent shall personally pay to all or any of the parties such costs as the Court may think fit to award.

## ORDER XL

### Taxation.

1. The Registrar, or such other officer as the Chief Justice may appoint for the purpose, shall be the Taxing Officer of the Court.

2. The Taxing Officer shall, in the absence of any specific provisions in these Rules, be guided by the Rules and practice of the Supreme Court in England.

3. The Taxing Officer shall allow all such costs, charges and expenses as appear to him to have been necessary or proper for the attainment of justice or for defending the rights of any party, and shall not allow any costs, charges and expenses which appear to him to have been incurred or increased unnecessarily or through negligence or mistake.

4. The Court may, in any proceedings where costs are awarded to any party, direct payment of a sum in gross in lieu of taxed costs, and may direct by and to whom that sum shall be paid.

5. Where in the opinion of the Taxing Officer the maximum fee allowed by these Rules is insufficient or a fee ought to be allowed for any matter not provided for in these Rules, he may refer the matter to the Court and the Court may make such order thereon as to the allowance of the whole or any part of the amount proposed by the Taxing Officer as it thinks fit.

6. Where the Taxing Officer is of opinion that any costs have been injuriously or unnecessarily occasioned by the negligence or improper conduct of any Agent, he shall not allow any charge for the same without the leave of the Court.

7. The Taxing Officer shall without delay bring to the notice of the Court any wrong charge which appears to him to have been wilfully made in any bill of costs.

8. In all cases of taxation as between party and party, the bill shall be lodged for taxation as between party and party and, unless the client expresses his desire to the contrary in writing, also as between Agent and client.

9. Every bill of costs lodged for taxation shall specify the exact number of folios contained in the bill lodged.

10. Every bill of costs shall be properly dated throughout and shall show in a column for the purpose the money paid out of pocket.

11. Every bill of costs shall be certified by the signature of the Agent from whose office it is issued.

12. The fees for taxation and registration of every bill of costs shall be paid in court-fee stamps when the bill is lodged for taxation.

13. Every bill of costs shall, wherever possible, be accompanied by vouchers, and every item of disbursement and the cause thereof shall be distinctly specified, and no payment out of pocket shall be allowed except on production of the necessary voucher, or in the case of Advocate's fees, without the signature of the Advocate that the fee has been paid.

14. Within three weeks from the date of the signing of the decree or order awarding costs, or within such further time as the Taxing Officer may for good cause allow, the party to whom the costs have been awarded shall leave in the Registry an office copy of the decree or order, and shall lodge therein the bill of costs and vouchers, and the Taxing Officer shall thereupon issue a summons fixing a date for the taxation.

15. The party having the charge of the bill shall, within two weeks of the issue of the summons above-mentioned, or within such further period as the Taxing Officer may for good cause allow, file in the Registry an affidavit of service of such summons. In default

of the filing of such affidavit within the time aforesaid or within the further period allowed by the Taxing Officer, the Taxing Officer may return the bill and vouchers, and shall not thereafter receive or tax the bill except by order of the Court:

Provided that where the Taxing Officer is satisfied that the party having the charge of the bill has made all reasonable efforts to have the summons served and has failed, the Taxing Officer may dispense with such affidavit, and may receive and tax the bill.

16. In cases of taxation as between Agent and client where the fees are payable by the client personally or out of a fund belonging entirely to him the Taxing Officer shall allow, as fees to Advocates, all sums actually paid, but not exceeding those set out in the Second Schedule to these Rules, unless the written consent of the client is produced.

17. Where an Agent acts for different parties to the same suit, appeal or matter, only one set of attendances shall be allowed, unless the Court otherwise orders.

18. Where on the taxation of a bill of costs payable out of a fund or out of the assets of a company in liquidation, the amount of the professional charges and disbursements contained in the bill is reduced by a sixth part or more, no costs shall be allowed to the Agent lodging the bill for taxation for drawing or copying it, nor for attending the taxation.

19. Where on taxation of an Agent's bill of costs as between Agent and client, the amount of the bill is reduced by a sixth part or more, the Agent shall pay the costs of taxation including the cost of the Agent (if any) employed in contesting the bill and the same shall be deducted by the Taxing Officer; but the Taxing Officer may certify any special circumstances relating to the bill or taxation and the Court may upon application by the Agent whose bill has been taxed make any such order as the Court may think just and equitable with respect to the costs of the taxation.

20. The Agent for each party shall be personally responsible to the Court for the payment of the fees for transcribing the deposition of witnesses examined on behalf of his client and for filing exhibits put in.

21. No fees shall be payable by a pauper to his Advocate or Agent nor shall any such fees be allowed on taxation of costs against the party, unless by order of the Court.

22. So Court fees shall be payable by an applicant to proceed *in forma pauperis.*

23. In the taxation of costs as between party and party, the costs of and incidental to the attendance of an Advocate on summons or other matters in Chambers shall not be allowed unless the Court certifies that it was a fit case for the employment of an Advocate.

24. An Agent who has furnished a copy of a document made for the purposes of a suit or appeal or other proceeding to the other party or his Agent on payment of half or other due proportion of the translation charges shall also be entitled to charge in his bill a fee of 10 annas per folio for such copy.

25. Unless specially allowed by the Taxing Officer, no allowance shall be made for any work done before commencement of proceedings in the Court, except for a letter before suit, and instructions to sue, appeal or defend.

26. In every case of taxation as between Agent and client, the client shall be duly summoned by the Taxing Officer to attend the taxation, unless the Taxing Officer shall see fit to dispense with his attendance.

27. No retaining fee to an Advocate shall be allowed on taxation as between party and party.

28. Where in any case it is necessary for an Agent to employ a legal practitioner beyond the limits of the State of Delhi, the Taxing Officer may allow such sum for the costs of that practitioner and of instructing him as the Taxing Officer may think reasonable.

29. Any party who is dissatisfied with the allowance or disallowance by the Taxing Officer of the whole or any part of the items in a bill of costs may apply to the Taxing Officer to review the taxation in respect thereof.

30. An application to review shall be made within a week from the date of the passing of the bill in the Taxing Office, and four days' notice thereof shall be given to the other party.

31. Objections in writing specifying concisely therein items or parts of the bill objected to and the grounds for the objections shall be served with the notice on the other party and a copy thereof shall at the same time be carried in before the Taxing Officer.

32. Objections which were not taken in at the time of the taxation shall not be taken in at the stage of review, unless allowed by the Taxing Officer.

33. The Taxing Officer may, where he thinks fit, issue, pending the consideration of any objections, a preliminary allocatur for or on account of the remainder of the bill of costs.

34. Upon application to review the Taxing Officer shall reconsider his taxation upon the objections carried in and may, where he thinks fit, receive further evidence in respect thereof, and shall state in a certificate the grounds of his decision thereon and any special facts or circumstances relating thereto.

35. Any party dissatisfied with the decision of the Taxing Officer may not later than seven days from the date of the decision, or within such further time as the Taxing Officer or the Court may allow, apply to the Court for an order to review the decision of the Taxing Officer and the Court may thereupon make such order as may seem just.

36. No evidence shall be received by the Court upon the review of the Taxing Officer's decision which was not before the Taxing Officer when he taxed the bill or reviewed his taxation unless the Court otherwise directs.

37. The certificate of the Taxing Officer by whom any bill has been taxed shall, unless it is set aside or altered by the Court, be final as to the amount of the costs covered thereby, and the Court may make such order in relation thereto, as it thinks fit, including, in a case where the retainer is not disputed, an order as between Agent and client that judgment be entered for the sum certified to be due with costs.

38. Except as otherwise specially provided in these Rules, or by any law for the time being in force, the Court fees to be taken in all proceedings in the Supreme Court shall be those set out in the Third Schedule to these Rules.

39. Except as otherwise specially provided in these Rules the fees set out in the Second and Fourth Schedules to these Rules may be allowed to Advocates and Agents and officers of the Court respectively.

40. The allowances to be made to witnesses per diem shall be such as the Taxing Officer may think reasonable having regard to the profession or status of the witness.

41. Where the witness is a party to the suit or matter he shall not be entitled to any allowance, except for travelling, unless he has been subpoenaed by another party to give evidence or the Court otherwise orders.

42. Witnesses residing more than five miles from the place where the Court sits shall be allowed travelling expenses according to the sums reasonably and actually paid by them and shall also be allowed such a sum for subsistence money and carriage hire as the Taxing Officer having regard to the daily allowances allowed under Rule 40, considers reasonable.

43. Every person summoned to give evidence shall have tendered to him with the summons a reasonable sum for his travelling expenses (if any) and for the first day's attendance and shall, if obliged to attend for more than one day, be entitled before giving his evidence to claim from the party by whom he has been summoned the appropriate allowances and expenses for each additional day that he may be required to attend.

44. Witnesses who have not been paid such reasonable sums for their expenses as the Court allows by its Rules may apply to the Court at any time in person to enforce the payment of such sum as may be awarded to them.

45. For the purposes of this Order a folio shall consist of two hundred words; seven figures shall be counted as one word; and more than half part of a folio shall be reckoned as a folio.

46. If an Agent makes an agreement in writing with his client as to his remuneration in respect of any business done or to be done by him in any proceedings in this Court, the amount payable under the agreement shall not be received by the Agent until the agreement has been examined and allowed by the Taxing Officer, and if the Taxing Officer is of opinion that the amount is unfair or unreasonable he may require the opinion of the Court to be taken thereon and the Court may reduce the amount payable thereunder, or order the agreement to be cancelled and the costs covered thereby to be taxed as if the agreement had never been made.

47. Where it is necessary to enforce payment of costs under a direction of the Registrar, an order for that purpose shall be obtained from a Judge. Applications for such orders may be made, without notice, by petition supported by a certificate of the Registrar.

48. The Court may, on the application of a client or his representative in interest direct an Agent to deliver a bill of costs, order taxation of a bill, direct an Agent to deliver up any documents or papers to the possession of which the applicant may be entitled, and pass such other orders in this behalf as the circumstances of the case may require, including orders as to the costs of the application.

## PART IX

### Miscellaneous.

### ORDER XLI.

NOTICE OF PROCEEDINGS TO THE ATTORNEY-GENERAL FOR INDIA OR ADVOCATES-GENERAL OF STATES.

1. The Court may direct notice of any proceedings to be given to the Attorney-General for India or to the Advocate-General of any State, and the Attorney-General for India or the Advocate-General to whom such notice is given may appear and take such part in the proceedings as he may be advised.

2. The Attorney-General for India or the Advocate-General of any State may apply to be heard in any proceedings before the Court, and the Court may, if in its opinion the justice of the case so requires, permit the Attorney-General for India or the Advocate-General so applying to appear and be heard, subject to such terms as to costs or otherwise as the Court may think fit.

### ORDER XLII.

FORMS TO BE USED.

1. Every writ, summons, order, warrant or other mandatory process shall run and be in the name of the President of India and shall bear the attestation of the Chief Justice, and shall be signed by the Registrar with the day and the year of signing, and shall be sealed with the Seal of the Court.

2. The forms set out in the Fifth Schedule to these Rules, or forms substantially to the like effect with such variations as the circumstances of each case may require, shall be used in all cases where those forms are appropriate.

## ORDER XLIII.

### Service of Documents.

1. Except where otherwise provided by Statute or prescribed by these Rules, all notices, orders or other documents required to be given to or served on, any person shall be served in the manner provided by the Code for the service of a summons.

2. Service of any notice, order or other document on the Agent of any party may be effected by delivering it to the Agent or by leaving it with a clerk in his employ at his place of business.

3. Service of any notice, order or other document upon a person who resides at a place within the territory of India between which place and Delhi there is communication by registered post, may, where so directed by the Court, be effected by posting a copy of the document required to be served in a prepaid envelope registered for acknowledgment, addressed to the party or person at the place where he ordinarily resides.

4. A document served by post shall be deemed to be served at the time at which it would be delivered in the ordinary course of post.

5. Unless the Court otherwise orders, the service of any notice, order or other document shall be proved by the production of a certificate by the Registrar that appearance has been entered; or, where no appearance has been entered, by evidence showing that the notice, order or other document was served in the manner provided by the Code.

6. Where the notice, order or other document has been served through another Court, the service may be proved by the deposition or affidavit of the serving officer made before the Court through which the service was effected.

7. Service effected after Court hours shall for the purpose of computing any period of time subsequent to that service be deemed to have been effected on the following day.

## ORDER XLIV.

### Commissions.

1. Order XXVI in the First Schedule to the Code with respect to commissions shall apply except rules 13, 14, 19, 20, 21 and 22.

2. An application for the issue of a commission may be made by summons in Chambers after notice to all parties who have appeared, or *ex parte* where there has been no appearance.

3. The commissioner shall, if the Advocate or other person examining a witness so desires, record a question disallowed by the commissioner and the answer thereto, but the same shall not be admitted as evidence until the Court before whom the deposition is put in evidence shall so direct.

4. The Court may, when the commission is not one for examination on interrogatories, order that the commissioner shall have all the powers of a Court under Chapter X of the Indian Evidence Act, 1872, to decide questions as to the admissibility of evidence, and to disallow any question put to a witness.

5. Unless otherwise ordered the party at whose instance the commission is ordered to issue, shall lodge in the Court copies of the pleadings in the case within twenty-four hours of the making of the order and those copies shall be annexed to the commission when issued.

6. Any party aggrieved by the decision of the commissioner refusing to admit evidence or allow a question to be put may apply to the Court to set aside the decision and for direction to the commissioner to admit the evidence or to allow the question, but no such application shall be entertained if made later than seven days after the examination of the witness has been closed.

7. After the deposition of any witness has been taken down and before it is signed by him, it shall be read over and, where necessary, translated to the witness, and shall be signed by him and left with the commissioner who shall subscribe his name and the date of the examination.

8. Commissions shall be made returnable within such time as the Court may direct.

## ORDER XLV

### Power to dispense and Inherent Powers

1. The Court may, for sufficient cause shown, excuse the parties from compliance with any of the requirements of these Rules, and may give such directions in matters of practice and procedure as it shall consider just and expedient.

2. An application to be excused from compliance with the requirements of any of the Rules shall be addressed in the first instance to the Registrar, who shall take the instructions of the Court thereon and communicate the same to the parties, but if in his opinion it is desirable that the application should be dealt with in open Court, he may direct the applicant to lodge it in the Registry, and to serve the other parties with a notice of motion returnable before the Court.

3. The Court may enlarge or abridge any time appointed by these Rules, or fixed by any order enlarging time, for doing any act or taking any proceeding, upon such terms (if any) as the justice of the case may require, and any enlargement may be ordered, although the application therefor is not made until after the expiration of the time appointed or allowed.

4. The Court may at any time, either of its own motion or on the application of any party, make such orders as may be necessary or reasonable in respect of any of the matters mentioned in rule 8 of Order.....of these Rules, may issue summonses to persons whose attendance is required either to give evidence or to produce documents, or order any fact to be proved by affidavit.

5. Nothing in these Rules shall be deemed to limit or otherwise affect the inherent powers of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

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## FIRST SCHEDULE

*Rules as to Printing of Record*

1. The Record in appeals to the Supreme Court shall be printed in the form known as Demy Quarto.

2. The size of the paper used shall be such that the sheet, when folded and trimmed, will be 11 inches in height and 8½ inches in width.

3. The type to be used in the text shall be Pica type, but Long Primer shall be used in printing accounts, tabular matter and notes. The number of lines in each page of Pica type shall be 47 or thereabouts, and every tenth line shall be numbered in the margin.

4. Records shall be arranged in two parts in the same volume, where practicable, *viz.*,—

*Part I*:—The pleadings and proceedings, the transcript of the evidence of the witnesses, the Judgments, Decrees, etc., of the Courts below, down to the Order admitting the Appeal.

*Part II*:—The exhibits and documents.

5. The Index to Part I shall be in chronological order, and shall be placed at the beginning of the volume.

The Index to Part II shall follow the order of the exhibit mark, and shall be placed immediately after the Index to Part I.

6. Part I shall be arranged strictly in chronological order, *i.e.*, in the same order as the index.

Part II shall be arranged in the most convenient way for the use of the Supreme Court, as the circumstances of the case require. The documents shall be printed as far as suitable in chronological order, mixing Plaintiff's and Defendant's documents together when necessary. Each document shall show its exhibit mark, and whether it is a Plaintiff's or Defendant's document (unless this is clear from the exhibit mark) and in all cases documents relating to the same matter such as :

(*a*) a series of correspondence, or

(*b*) proceedings in a suit other than the one under appeal;

shall be kept together. The order in the Record of the documents in Part II will probably be different from the order of the Index, and the proper page number of each document shall be inserted in the printed Index.

The parties will be responsible for arranging the Record in proper order for the Supreme Court, and in difficult cases counsel may be asked to settle it.

7. The documents in Part I shall be numbered consecutively.

The documents in Part II shall not be numbered, apart from the exhibit mark.

8. Each document shall have a heading which shall consist of the number of exhibit mark and the description of the document in the Index, without the date.

9. Each document shall have a marginal note which shall be repeated on each page over which the documents extends, *viz.*—

PART I

(*a*) Where the case has been before more than one court, the short name of the court shall first appear. Where the case has been before only one court, the name of the court need not appear.

(*b*) The marginal note of the document shall then appear consisting of the number and the description of the documents in the Index, with the date, except in the case of oral evidence.

(*c*) In the case of the oral evidence, "Plaintiff's evidence" or "Defendant's evidence" shall appear beneath the name of the court, and then the marginal note consisting of the number in the Index and the witness's name, with "Examination," "Cross-examination" or "Re-examination," as the case may be.

## PART II.

The word "Exhibits" shall first appear.

The marginal note of the exhibit shall then appear consisting of the exhibit mark and the description of the document in the Index with the date.

10. The parties shall agree to the omission of formal and irrelevant documents, but the description of the document may appear (both in the Index and in the Record), if desired, with the words "not printed" against it.

A long series of documents, such as accounts, rent rolls, inventories, etc., shall not be printed in full, unless counsel so advises, but the parties shall agree to short extracts being printed as specimens.

11. In cases where maps are of an inconvenient size or unsuitable in character, the Appellant shall, in agreement with the Respondent, prepare maps drawn properly to scale and of reasonable size, showing as for as possible, the claims of the respective parties, in different colours.

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## SECOND SCHEDULE.

### FEES TO ADVOCATES

### PART I.

| | | Fee on brief Not exceeding | Refresher Not exceeding |
|---|---|---|---|
| Defended Appeals, Suits and References under Articles 143 and 317(1) of the Constitution. | Senior Advocate ... | 60 G.Ms. | 25 G.Ms. |
| | Junior Advocate ... | 40 G.Ms. | 20 G.Ms. |
| | 3rd Advocate (if allowed). ... | 20 G.Ms. | 10 G.Ms. |
| Undefended Appeals ... | One Advocate ... | 20 G.Ms. | |
| Opposed motions or investigations in Court. | Senior Advocate (if allowed). ... | 10 G.Ms. | No refresher unless specially allowed by the Taxing Officer. |
| | Junior Advocate ... | 6 G.Ms. | |
| Opposed applications or investigations in Chambers when certified. | One Advocate ... | 10 GMs. | Do |
| Ex parte motions or Chamber applications when certified. | One Advocate ... | 3 G.Ms. | |
| Hearing judgment in Suits, Appeals, or References where judgment was reserved. | One Advocate ... | 2 G.Ms. | |
| Examination of witnesses before Commissioner. | Senior Advocate ... | 10 G.Ms. | 7 G.Ms. |
| | Junior Advocate ... | 6 G.Ms. | 5 G.Ms. |

### PART II.

| | |
|---|---|
| To Junior Advocate, for drawing pleadings ... | 5 G.Ms. |
| To Senior Advocate, for settling pleadings in consultation with junior | 10 G.Ms. |
| To Junior Advocate, for drawing petitions of appeal ... | Not exceeding 5 G.Ms. |
| To Senior Advocate, for settling petitions of appeal in consultation with junior (if allowed). | Not exceeding 10 G.Ms. |

| | |
|---|---|
| To Junior Advocate, for drawing appellant's or respondent's Case ... | Not exceeding 10 G.Ms. |
| To Senior Advocate, for settling appellant's or respondent's Case in consultation with junior. | Not exceeding 15 G.Ms. |
| To Junior Advocate, for drawing Special Case ... ... | Not exceeding 6 G.Ms. |
| To Senior Advocate, for settling Special Case in consultation with junior | Not exceeding 10 G.Ms. |
| To Junior Advocate, for drawing affidavits or petitions not otherwise provided for. | Not exceeding 5 G.Ms. |
| To Senior Advocate, for settling affidavits or petitions not otherwise provided for in consultation with junior (if allowed). | Not exceeding 10 G.Ms. |
| Advice on evidence ... .. ... ... | Not less than 5 nor more than 10 G.Ms. |

| | |
|---|---|
| Consultations :— | |
| Senior Advocate ... ... ... | 5 G.Ms. |
| Junior Advocate ... ... ... | 3 G.Ms. |
| General Retainer ... ... ... | 5 G.Ms. |
| Special Retainer ... ... ... | 2 G.Ms. |

For the purposes of this Table a Gold Mohur shall be deemed to be the equivalent of Rs. 16.

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## THIRD SCHEDULE.

### TABLE OF COURT FEES.

### PART I.

#### ORIGINAL JURISDICTION.

| | Rs. | As. | P. |
|---|---|---|---|
| 1 Filing and registering plaint ... ... ... | 250 | 0 | 0 |
| 2 Filing and registering written statement ... ... | 50 | 0 | 0 |
| 3 Filing and registering set-off or counter-claim ... | 50 | 0 | 0 |
| 4 Reply to a counter-claim ... ... ... | 50 | 0 | 0 |
| 5 Examining and comparing documents with the original, for each folio ... ... | 0 | 8 | 0 |
| 6 Reducing into writing or, where taken down in shorthand, transcribing the deposition of each witness, for each folio | 0 | 10 | 0 |
| 7 Typed copies of transcript of depositions of witnesses for any party : | | | |
| first copy, per folio ... ... ... | 0 | 8 | 0 |
| carbon copies, per folio .. ... ... | 0 | 2 | 0 |

## PART II.

### APPELLATE JURISDICTION.

| | Rs. | as. | p. |
|---|---|---|---|
| 1 Petition for special leave to appeal ... ... | 250 | 0 | 0 |
| 2 Lodging and registering Petition of Appeal | | | |
| Where the amount or value of the subject matter in dispute is Rs. 20,000 or below that sum ... | 250 | 0 | 0 |
| For every Rs. 1,000 in excess of Rs. 20,000 ... | 5 | 0 | 0 |
| | for every thousand rupees or part thereof. | | |
| In cases where it is not possible to estimate at a money value the subject matter in dispute ... | 250 | 0 | |

Provided :

1 that the maximum fee payable in any case shall not exceed Rs. 2,000 and

2 that where an appeal is brought by special leave granted by this Court credit shall be given to the appellant for the amount of court-fee paid by him on the petition for special leave to appeal.

| | | | |
|---|---|---|---|
| 3 Lodging of case, or Caveat ... ... | 20 | 0 | 0 |
| 4 Application for Review of judgment of Court ... ... | Half the fee paid on the Petition of Appeal. | | |

## PART III.

### MISCELLANEOUS.

| | Rs. | As. | P. |
|---|---|---|---|
| 1 Entering in register of suits, appeals or matters, names of representatives of a deceased party or of a substituted or added party ... ... ... | 2 | 0 | 0 |
| 2 Summons or notice to defendant or his representative or a respondent to a petition or to a memorandum of appeal, for not more than five per cent (with an additional fee of Re. 1 for every person in excess of five) ... | 5 | 0 | 0 |
| 3 Entering Appearance ... ... ... | 5 | 0 | 0 |
| 4 Amending Appearance ... ... ... | 5 | 0 | 0 |
| 5 Power of attorney to agent ... ... ... | 3 | 0 | 0 |
| 6 Filing fee for every document for which a fee is not specially provided, including documents annexed thereto as exhibits, if any, or produced with plaint or used in evidence, each document ... ... ... | 2 | 0 | 0 |
| 7 Every application to the Court not specially provided for ... | 10 | 0 | 0 |
| 8 Every application to a Judge in Chambers, the Registrar or Taxing Officer not specially provided for ... | 5 | 0 | 0 |
| 9 Every requisition to draw up an order, including fee for filing the order ... ... ... | 5 | 0 | 0 |

| | | Rs. | A. | P. |
|---|---|---|---|---|
| 10 | Warrant, writ, summons or other process not specially provided for, for not more than five persons (with an additional fee of Re. 1 for every person in excess of five) ... | 5 | 0 | 0 |
| 11 | Every certificate or report of a Judge in Chambers or of Registrar on an investigation ... ... | 10 | 0 | 0 |
| 12 | Every other certificate for which a fee is not specially provided ... ... ... | 3 | 0 | 0 |
| 13 | Commission to examine witnesses or other commission ... | 10 | 0 | 0 |
| 14 | Production by an officer of the Court in any other court or before a Commissioner of records of any suit, matter or appeal, exclusive of travelling expenses ... | 10 | 0 | 0 |
| 15 | For production of records by post, exclusive of postage, registration and insurance fees ... ... | 5 | 0 | 0 |
| 16 | For every attendance on parties or their agents inspecting books and papers in Court ... ... | 5 | 0 | 0 |
| 17 | For enquiry into sufficiency of security ... | 8 | 0 | 0 |
| 18 | For every search or examination of records ... | 3 | 0 | 0 |
| 19 | Every affidavit affirmed or sworn ... | 2 | 0 | 0 |
| 20 | For every oath or affirmation administered to witness ... | 3 | 0 | 0 |
| 21 | Every exemplification of decree or other document in addition to the folio and other charges ... ... | 10 | 0 | 0 |
| 22 | Every requisition for duplicate or other copy of any document | 1 | 0 | 0 |
| 23 | For duplicate and other copies of any document, per folio less requisition fee paid ... ... | 0 | 10 | 0 |
| 24 | For amending pleadings or other proceedings under order of the Court, per folio ... ... | 2 | 0 | 0 |
| 25 | Upon all moneys or securities paid to the Registrar or deposited with him ... ... | A commission of 1 per cent and 2½ per cent on interest drawn on invested money. | | |
| 26 | Every requisition for translation ... | 1 | 0 | 0 |
| 27 | Every written translation, per folio, less requisition fee paid | 2 | 0 | 0 |
| 28 | Summons by Taxing Officer ... ... | 3 | 0 | 0 |
| 29 | Certificate by Taxing Officer ... ... | 2 | 0 | 0 |
| 30 | Taxing each bill, not exceeding 10 folios ... | 10 | 0 | 0 |
| 31 | For every other folio ... ... | 1 | 0 | 0 |
| 32 | Registering every bill of costs ... ... | 1 | 0 | 0 |
| 33 | Special certificate of allowance where required ... | 8 | 0 | 0 |
| 34 | Certificate on review of taxation ... ... | 10 | 0 | 0 |
| 35 | For every certificate of funds in Court ... | 8 | 0 | 0 |

N. B.—In the case of References under Article 143 of the Constitution such of the above fees as may be appropriate shall be charged.

# FOURTH SCHEDULE.

## FEES TO AGENTS.

| | Rs. | A. | P. |
|---|---|---|---|
| 1 Drawing and engrossing authority to sue, appeal or defend | 2 | 0 | 0 |
| 2 Receiving instructions for special affidavits or petitions (not to be allowed for affidavit made by Agent or his clerk) ... | 10 | 0 | 0 |
| 3 Drawing and engrossing affidavits, petitions and all other necessary documents (not specially provided for) exclusive of copies inserted therein up to 10 folios ... | 8 | 0 | 0 |
| Thereafter per folio ... ... | 0 | 10 | 0 |
| 4 Drawing and engrossing Security Bond ... | 8 | 0 | 0 |
| 5 Drawing and engrossing notice of motion and other necessary notices except notice to witnesses ... | 8 | 0 | 0 |
| 6 Drawing and engrossing observations or instructions for advocate to accompany brief in interlocutory applications or for cross examination of witness on commission | 8 to 12 | 0 to 0 | 0 to 0 |
| 7 Drawing and engrossing particulars of claim, set-off or counter-claim if required ... | 4 to 10 | 0 to 0 | 0 to 0 |
| 8 (1) Preparing engrossment or fair copy of documents (not specially provided for) whether written or typed, first copy, per folio ... ... ... | 0 | 8 | 0 |
| (2) Preparing carbon copies of above, if legible, per folio ... | 0 | 4 | 0 |
| (3) Preparing lithographed or photographed copies or printed copies, per folio ... ... | 0 | 8 | 0 |
| | or actual charges incurred, whichever is less. | | |
| 9 Serving every necessary notice, summons to a witness or other judicial process, which may be served by Agent, when within the State of Delhi ... ... | 4 | 0 | 0 |
| When outside the State of Delhi (besides travelling expenses actually incurred) per day ... ... | 8 | 0 | 0 |
| 10 Attendance on presentation of plaint or petition of appeal | 10 | 0 | 0 |
| 11 Receiving, filing or depositing any papers from or in the Registry ... ... | 2 | 0 | 0 |
| 12 Attendance before the Court or Judge or an officer of the Court not otherwise provided for ... | 5 | 0 | 0 |
| 13 Attending application for summons to witnesses or to parties | 2 | 0 | 0 |
| 14 Attending every application to the Court or a Judge in Chambers ... ... | 12 | 0 | 0 |
| 15 Attending every application to Registrar, if contested ... | 12 | 0 | 0 |
| Do if uncontested ... | 8 | 0 | 0 |
| 16 Attendance on client or opposite party or his agent at the office of the Agent of either party where a letter would not suffice ... | 8 to 12 | 0 to 0 | 0 to 0 |
| Where a letter would suffice ... ... | 4 | 0 | 0 |
| 17 Receiving and perusing necessary letters ... | 2 | 0 | 0 |
| 18 Perusing documents received from opposite party, where necessary in the discretion of the Taxing Officer, upto— ... | 8 | 0 | 0 |
| 19 Attending for perusal and approval of draft orders or decrees | 8 | 0 | 0 |
| 20 Attending execution of Security Bond at the Agent's house or office or at the Court House ... ... | 4 | 0 | 0 |

| | | Rs. | as. | p. |
|---|---|---|---|---|
| 21 | Attending Court upon the swearing of every necessary affidavit (including attendance upon the Interpreter to have same explained) ... ... | 2 | 0 | 0 |
| 22 | Attendances, if necessary, inspecting documents, books and accounts, by Agent, per hour ... ... | 10 | 0 | 0 |
| | Attendances, if necessary, inspecting documents, books and accounts, by clerk, per hour ... ... | 2 | 0 | 0 |
| 23 | Attending searches in Registry— | | | |
| | Common ... ... | 2 | 0 | 0 |
| | Special ... ... | 4 to 10 | 0 to 0 | 0 to 0 |
| 24 | Attending bespeaking, obtaining and filing copies of decrees or orders in the Registry ... ... | 2 | 0 | 0 |
| 25 | Attending advocate, delivering brief with instructions ... | 2 | 0 | 0 |
| | Attending advocate, delivering additional briefs ... | 1 | 0 | 0 |
| 26 | Attending advocate, paying fee ... ... | 2 | 0 | 0 |
| 27 | Attending advocate, fixing time for consultation ... | 2 | 0 | 0 |
| 28 | Attendance when suit, appeal or matter or motion is on day's list for hearing—if not called on—per day ... | 5 | 0 | 0 |
| 29 | Attending Court to hear judgment where judgment is reserved, if advocate is not briefed ... | 20 | 0 | 0 |
| | If advocate is briefed ... ... | 10 | 0 | 0 |
| 30 | Attending taxation, by Agent, personally, per hour ... | 5 | 0 | 0 |
| 31 | Attending Judge in Chambers or Registrar at hearing or enquiry or on review of taxation before Taxing Officer, if advocate is not briefed, per hour ... ... | 10 | 0 | 0 |
| | Where advocate is briefed, per hour ... | 5 | 0 | 0 |
| 32 | Attending on local enquiry or commission to examine witnesses within the limits of the State of Delhi where personal attendance of Agent is required, per hour ... | 12 | 0 | 0 |
| | Where attendance by clerk is sufficient, per hour ... | 2 | 0 | 0 |
| | Within the limits of the State of Delhi, an additional fee for going and returning and loss of time according to distance | 3 to 8 | 0 to 0 | 0 to 0 |
| | Outside the limits of the State of Delhi, an additional fee for going and returning and loss of time, for every mile (provided the total amount shall not exceed Rs. 80 per day and Rs. 125 per day and night) ... | 2 | 0 | 0 |
| 33 | Writing necessary letters ... ... | 4 | 0 | 0 |
| 34 | Writing letters to witnesses, for each witness ... | 2 | 0 | 0 |
| 35 | Writing letter of instructions to local Agent attending examination of witness on commission, when Agent cannot attend personally ... | 10 | 0 | 0 |
| 36 | Necessary translations made at the office of Agent, per folio ... ... | 0 | 10 | 0 |
| 37 | Receiving instructions to sue, appeal or defend and/or counterclaim ... ... | 16 to 32 | 0 to 0 | 0 to 0 |
| 38 | Instructions to advocate to draw pleadings ... | 20 to 50 | 0 to 0 | 0 to 0 |

| | | Rs. | as. | p. |
|---|---|---|---|---|
| 39 | Instructions to advocate to draw interrogatories ... | 8 | 0 | 0 |
| 40 | Instructions to advocate to draw a special case ... | 10 | 0 | 0 |
| 41 | Instructions to advocate to draw Case in appeal ... | 25 | 0 | 0 |
| 42 | Instructions to advocate to draw petition for Special Leave to appeal ... ... | 20 | 0 | 0 |
| 43 | Bill of costs in defended suits, appeals or matters ... | 10 | 0 | 0 |
| | Bill of costs in undefended suits, appeals or matters ... | 5 | 0 | 0 |
| 44 | Consultations with advocate ... ... | 12 | 0 | 0 |
| 45 | Collecting and taking down evidence, at the discretion of the Taxing Officer ... ... | Not exceeding 100 | 0 | 0 |
| 46 | Attendance at hearing of suits, appeals or matters if contested, each day ... ... | 20 to 60 | 0 to 0 | 0 to 0 |
| | If uncontested, each day ... ... | 13 | 0 | 0 |
| 47 | The following costs may be allowed as between Agent and client but are not to be allowed as between party and party: | | | |
| | (1) Conference with counsel before appeal, if sanctioned or directed by client ... ... | 12 | 0 | 0 |
| | (2) Other conferences with counsel if sanctioned or directed by client ... ... | 8 | 0 | 0 |
| | (3) Expenses of Agent incurred with the sanction of client in collecting and taking down evidence and defraying expenses of witnesses other than those hereinbefore provided ... | Discretionary. | | |
| | (4) Every attendance by Agent's clerk on purdah woman, or client unable to attend Court or Agent's office to obtain signatures and verifications to pleadings or proceedings required to be verified and to get affidavits sworn or affirmed, where within the limits of the State of Delhi ... | 8 | 0 | 0 |
| | Similar attendance by Agent in person, when specially directed by client ... | 20 | 0 | 0 |
| | (5) Every other attendance by Agent's clerk at any place other than the Court House or Agent's office or house at request of client, where attendance is within the limits of the State of Delhi ... ... | 8 | 0 | 0 |
| | Similar attendance by Agent in person where necessity is shown ... ... | 20 | 0 | 0 |
| | (6) For every attendance by Agent in person beyond the limits of the State of Delhi under either of the last two preceding clauses Agent shall be allowed for every extra mile or portion of a mile beyond such limits additional fees to cover travelling expenses and loss of time per mile (provided the total amount including fee for going and returning shall not exceed Rs. 80) ... | 2 | 0 | 0 |
| | For similar attendance by Agent's clerk, additional fees shall be allowed at half the rates allowable to Agents ... ... | ... | | |
| 48 | Making transcript or copying papers for the press where necessary for preparing paper book, including examination, per folio ... ... | 0 | 10 | 0 |

| | | Rs. as. p. |
|---|---|---|
| 49 | Printing paper book ... ... | Actual cost at a reasonable rate to be allowed by the Taxing Officer. |
| 50 | Examining proofs, per folio ... ... | 0 5 0 |
| 51 | Instructions for brief (including perusing of papers) whether on final disposal at first hearing, settlement of issues, final trial or on appeals on references, on motions ... ... | Discretionary. |
| 52 | Attendance by respondent's Agent at the office of the appellant's Agent to examine the printed copy of the transcript with the official copy, for every hour or part of an hour ... ... | 8 0 0 |

FEES TO OFFICERS OF COURT.

| | | |
|---|---|---|
| 1 | Fees of interpreter for explaining at the house of a party or any place other than the Court House, pleadings and other documents except affidavits or affirmations, where not exceeding 20 folios ... ... | 8 0 |
| | Where over 20 folios, for every 10 folios or part thereof ... | 2 8 |
| 2 | Fees of Registrar for taking bonds and of Commissioners for taking affidavits or affirmations at the House of a party or any place other than the Court House: | |
| | For the first affidavit, oath or affirmation or bond, where within the limits of the State of Delhi ... | 16 0 0 |
| | Ditto where beyond such limits ... | 24 0 0 |
| | For every affidavit, oath or affirmation or bond taken at the same time and place after the first, in the same suit appeal or matter ... ... | 8 0 0 |
| 3 | Fees of Commissioners for receiving affidavits, oaths, affirmations at Court House, for every affidavit, oath or affirmation ... ... | 2 0 0 |
| 4 | Fees of interpreter for explaining bonds, affidavits or petitions, at the house of party or any place other than the Court House. | Half the fees allowed to Registrar or Commissioner. |

---

## FIFTH SCHEDULE

### FORMS.

### No. 1.

### SUPREME COURT OF INDIA.

(*Certificate of Enrolment of Advocate or Agent.*)
(S.C.R., Order IV.)

No .....

THIS IS TO CERTIFY that
has this day been admitted and enrolled [as a Senior Advocate] [as an Advocate] [as an Agent] in the Supreme Court of India.

Dated this the day of 19 .

*Registrar.*

No. 2.

SUPREME COURT OF INDIA.

*Undertaking by Agent.*

(S.C.R., Order No. IV, Rule 20).

I, the undersigned, do hereby declare that I will observe, submit to, perform and abide by all and every the orders, rules, regulations, and practice of the Supreme Court now in force, or hereafter from time to time to be made; and also to pay and discharge, from time to time, when the same shall be demanded, all fees, charges, and sums of money due and payable in respect of any appeal, cause or other matter in and upon which I shall appear as such Agent; and I undertake not to appear or plead before any High Court so long as my name remains upon the Roll of Agents in the Supreme Court save to the extent that I am allowed to do so as an Attorney/Solicitor under the rules of the High Court of Judicature at.....).

Dated this the day of 19 .

(Signed) ——— ———, ———

Registrar.

———

No. 3.

*Power of Attorney to Agent.*

(S.C.R., Order IV, Rule 24).

*In the Supreme Court of India.*

[*Appellate Jurisdiction*]
[*Original Jurisdiction*]

*Appeal*

Case No. of 19 ,

[A.B.] [*Appellant*]
[State of A.B.] [*Plaintiff*]

*Vs.*

[C.D.] [*Respondent*]
[State of C.D.] [*Defendant*]

I (We), A.B., of [*residence and addition of place*], do hereby appoint and constitute Mr. E.F., Agent, Supreme Court, as the Agent for the aforesaid plaintiff [or appellant, defendant or respondent], to commence and prosecute (or to appear and defend) this action (appeal) on my (our) behalf, to draw and deposit money, to file and take back documents, to accept the processes of the Court, to appoint and instruct counsel, to represent me (us) in the above matter and to do all things incidental to such acting for me (us). I (We) agree to ratify all acts done by the aforesaid Agent in pursuance of this authority.

In witness whereof I (we) do hereunto set my (our) hand this the day of 19 .

(Signed) A. B.———, ———

Accepted.

*Agent.*

No. 4.

*Form of Summons for an Order in Chambers.*

(S.C.R., Order V.)

*In the Supreme Court of India.*

[*Appellate Jurisdiction*]

[*Original Jurisdiction*]

*Appeal.*

Case No. of 19 .

[A.B.] [*Appellant*]

[State of A.B.] [*Plaintiff*]

*Vs.*

[C.D.] [*Respondent*]

[State of C.D.] [*Defendant*]

Let all parties concerned attend before ..... in Chambers at the Court House, (New Delhi,) on the day of 19 , at o'clock in the forenoon on the hearing of an application on the part of the above-named plaintiff (*or appellant, defendant, respondent as the case may be*) for an order that [*here state the precise object of the application*]

Dated this the day of 19 .

[Take notice that this summons will be attended by counsel for the applicant.

(Signed)————————

Agent for the plaintiff.

This summons was taken out by————————, Agent for the applicant.]

To

————————————————,

Agent for the opposite party.

No. 5.

*Notice of appeal from Registrars.*

(S.C.R., Order V, Rule 3.)

*In the Supreme Court of India.*

[*Appellate Jurisdiction*]

[*Original Jurisdiction* ]

*Appeal*

Case No. of 19 .

[A.B.] [*Appellant*]

[State of A.B.] [*Plaintiff*]

*Vs.*

[C.D.] [*Respondent*]

[State of C.D.] [*Defendant*]

Take notice that the above-named plaintiff (*or appellant, respondent,*] *defendant as the case may be*) intends to appeal against the decision of the Registrar, given on the day of (*ordering or refusing to order*) that

And further take notice that you are required to attend before the Judge in Chambers at the Court House [, New Delhi,] on the day of 19 at o'clock in the forenoon, on the hearing of an application by the said plaintiff (*or appellant, respondent, defendant as the case may be*) for an order that (*here state the order sought to be obtained*).

[And also take notice that it is the intention of the said plaintiff (*or as the case may be*) to attend by an Advocate*.]

(Signed).....

To

.....,

Agent for the above-named defendant.

*Notice of Motion.*

(S.C.R., Order VI, Rule 2).

*In the Supreme Court of India.*

[*Appellate Jurisdiction.*]

[*Original Jurisdiction.*]

*Appeal*

Case No. of 19 .

[A.B.] [*Appellant*]

[State of A.B.] [*Plaintiff*]

*Vs.*

[C.D.] [*Respondent.*]

[State of C.D.] [*Defendant.*]

Take notice that the Court will be moved on the day of 19 , at o'clock in the forenoon, or so soon thereafter as counsel can be heard, by Mr. ....., counsel for the above-named plaintiff (*or defendant, appellant, respondent as the case may be*), that (*or for an order that, or for*) (*here state the precise object of the motion, as thus*: this action may stand dismissed for want of prosecution).

If special leave to serve the notice has been obtained add as follows:

And take notice also, that special leave to give this (if so, short) notice for the day and hour aforesaid has been obtained from the Court.

Dated this the day of 19 .

(Signed).....
Agent for the plaintiff.

To

.....,

Agent for the above-named defendant.

*The last sentence to be omitted if an Advocate is not to attend.

No. 7.

*Form of Oath by Translator.*

(S.C.R., Order VII, Rule 4.)

*In the Supreme Court of India.*

In the matter of , a translator.

I, solemnly affirm and say that I will translate correctly and accurately all documents given to me for translation.

Dated this the day of 19 .

Before me.

Registrar.

---

No. 8.

*Application for Production of Records.*

(S.C.R., Order IX).

*In the Supreme Court of India.*

[*Appellate Jurisdiction.*]

[*Original Jurisdiction.*]

*Appeal*

Case No. of 19 .

[A.B.] [*Appellant*]

[State of A.B.] [*Plaintiff*]

*Vs.*

[C.D.] [*Respondent*]

[State of C.D.] [*Defendant*]

To

The Registrar, Supreme Court of India.

Sir

Please produce the records of the within mentioned case before on (*here insert the number and title of the case of which the records are required*).

Dated this the day of 19 .

(Signed)..... ....., .....

No. 9.

*Notice to parties of the day fixed for delivery of Judgment.*

(S.C.R., Order X, Rule 1.)

*In the Supreme Court of India.*

[*Appellate Jurisdiction.*]
[*Original Jurisdiction.*]

*Appeal*
*Case No.* of 19

[A.B.] [*Appellant*]
[State of A.B.] [*Plaintiff*]

*Vs.*

[C.D.] [*Respondent*]
[State of C.D.] [*Defendant*]

To

(*Names of parties or their Agents.*]

Take notice that the Court will deliver judgment in the above-named appeal (case) on the day of 19 , at o'clock in the forenoon, or so soon thereafter as may be convenient to the Court.

Dated this the day of 19 .

Registrar.

---

No. 10.

*Notice to Respondent of Lodging of Appeal.*

(S.C.R., Order XXI, Rule 5.)

*In the Supreme Court of India.*

[*Appellate Jurisdiction.*]

Appeal No. of 19 .

Appeal from the judgment (or decree or final order) of the High Court of Judicature at
Court of Tribunal

[A.B.] [*Appellant*]

*Vs.*

[C.D.] [*Respondent*]

To

(*Name of respondent or his Agent.*)

Take notice that an appeal from the judgment (or decree, or final order) of the High Court of Judicature at dated the of Court 19 , in case No. (here give number of case in High Court) or J. C's Court was presented by the above-named appellant on the day of 19 and has been registered in this Court as criminal appeal No. of 19 .

Dated this the day of 19 .

Registrar.

No. 11.

*Memorandum of Appearance in person.*

(S.C.R., Order XX, Rule 3.)

*In the Supreme Court of India.*

[*Appellate Jurisdiction.*]

Appeal No. of 19 .

[A.B.] [*Appellant*]

*Vs.*

[C.D.] [*Respondent*]

To

The Registrar.

Please enter an appearance for the respondent above-named in this appeal.

Dated this the day of 19

(Signed).....

Address for Service.

---

No. 12.

*Notice to parties of the day fixed for hearing of Appeal.*

(S.C.R., Order XIX, Rule 2.)

*In the Supreme Court of India.*

[*Appellate Jurisdiction.*]

Appeal No. of 19

[A.B.] [*Appellant*]

*vs.*

[C.D.] *Vs.* [*Respondent*]

To

(*Names of parties or their Agents.*)

Take notice that the above appeal is fixed for hearing on the day of 19 , and shall be taken up for hearing by the Court on that day at o'clock in the forenoon or so soon thereafter as may be convenient to the Court.

Dated this the day of 19.

Registrar.

No. 13.

*Summons for Disposal of Suit.*

(S.C.R., Order XXIV, Rule 1.)

*In the Supreme Court of India.*
[*Original Jurisdiction.*]

Case No. of 19 .

[State of A.B.] [*Plaintiff.*]

$\frac{v}{1}$ s.

[State of C.D.] [*Defendant.*]

THE PRESIDENT OF INDIA, *i.e.*, BHARAT.

To

WHEREAS the abovenamed plaintiff has instituted a suit in this Court against you claiming you are hereby required to cause an appearance to be entered for you in the Registry of the Court within twenty-eight days from the service upon you of this summons, exclusive of the day of such service; and you are summoned to appear before this Court by an Advocate duly instructed by an Agent of the Court to answer the plaintiff's claim on the day the case is set down for hearing, upon which date you must be prepared to produce all your witnesses and all documents in your possession or power upon which you intend to rely in support of your case.

And you are hereby required to take notice that in default of your causing an appearance to be so entered, the suit will be liable to be heard and determined in your absence.

Witness Chief Justice of India,
the day of in the year one thousand
nine hundred and

Agent :
Address :

Registrar.

---

No. 14.

*Memorandum of Appearance through Agent.*

(S.C.R., Order XVI.)

*In the Supreme Court of India.*
[*Appellate Jurisdiction.*]
[*Original Jurisdiction.*]

Appeal
Case No. of 19 .

[A.B.] [*Appellant*].
[State of A.B.] [*Plaintiff*].

$\frac{v}{1}$ s.

[C.D.] [*Respondent.*]
[State of C.D.] [*Defendant.*]

To

The Registrar,

Please enter an appearance for the abovenamed respondent (*or the defendant*) in this appeal/case.

Dated this the day of 19 .

(Signed).....
Agent for the respondent.

No. 15.

*Notice of Appearance.*

(S.C.R., Order XXIV, Rule 7.)

*In the Supreme Court of India.*
[*Original Jurisdiction.*]

Case No. of 19

[State of A.B.] [*Plaintiff.*]

$\frac{v}{1}$s.

[State of C.D.] [*Defendant.*]

To

(*The plaintiff or his Agent*).

Take notice that appearance has been entered for the abovenamed defendant in this case.

Dated this the day of 19 .

(Signed).....

Agent for the defendant.

---

No. 16.

*Summons for Directions.*

(S.C.R., Order XXIV, Rule 8.)

*In the Supreme Court of India.*
[*Original Jurisdiction*].

Case No. o 19

State of A.B.] [*Plaintiff.*]

$\frac{v}{1}$

[State of C.D.] [*Defe*

Let all parties concerned attend, in Chambers at the Court House (New Delhi) on the day of 19 , at o'clock in the forenoon on the hearing of an application by the plaintiff for directions in this action as fallows:—[*The applicant should specifically state what he applies for, and strike out what he does not apply for.*]

| | |
|---|---|
| Pleadings ... ... | [*Here state the directions required; as thus*; That the plaintiff may be at liberty to amend his statement of claim by (*state amendments proposed*), and generally as he may be advised.] |
| Particulars ... ... | |
| Admission of documents and facts ... | |
| Discovery ... ... | |
| Interrogatories ... ... | |
| Inspection and production of documents... | |
| Inspection of real or personal property ... | |
| Commissions ... ... | |
| Examination of witnesses ... ... | |
| Place of trial ... ... | |
| Mode of trial ... ... ... | |

Dated this the day of 19 .

Registrar.

This summons was taken out by

To Agent for the plaintiff.

---

Agent for the defendant.

No. 17.

*Notice of payment of Money into Court.*

(S.C.R., Order XXXIII)

*In the Supreme Court of India.*
[*Original Jurisdiction.*]

Case No. of 19 .

[State of A.B.] [*Plaintiff.*]

*v*
*-s.*
1

[State of C.D.] [*Defendant*]

Take notice that the defendant has paid into Court Rs. and says that (Rs. part of) that sum is enough to satisfy the plaintiff's claim (for and Rs. the other part of that sum is enough to satisfy the plaintiff's claim for ) and admits (but denies) liability therefor.

Dated this the day of 19 .

Signed.....
Agent for defendant.
Address.

To

Agent for plaintiff,
Address.

---

No. 18.

*Acceptance of Sum paid into Court.*

(S.C R., Order XXXIII.)

*In the Supreme Court of India.*
[*Original Jurisdiction.*]

Case No. 19 .

[State of A.B.] [*Plaintiff.*]

*v*
*-s*
1

[State of C.D.] [*Defendant.*]

The plaintiff accepts the sum of Rs. , paid by the defendant into Court in satisfaction of the claim in respect of which it was paid in (and abandons his other claims in this action).

Dated this the day of 19 .

Signed.....
Agent for the plaintiff.
Address.

To

Agent for the defendant.
Address.

No. 19.

*Notice to the Attorney-General for India of Special Reference under Article 143 of the Constitution of India.*

(S.C.R., Order XXXVI.)

*In the Supreme Court of India.*

Special Reference No. of 19 .

In the matter of a Special Reference under Article 143 of the Constitution of India.

PRESIDENT OF INDIA, *i.e.*, BHARAT

To

The Attorney-General for India.

WHEREAS under Article 143 of the Constitution of India, the President has referred the following question (s) of law (or fact) for consideration and report to this Court :—

(*Here set out the question or questions referred.*)

Take notice that you are hereby required to appear before this Court on the day of 19 , at o'clock in the forenoon to take the directions of the Court in the matter.

Witness , Chief Justice of India, the day of in the year one thousand nine hundred and .

Registrar.

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No. 20.

*Notice to parties of Special Reference under Article 143 of the Constitution of India.*

(S.C.R., Order XXXVI.)

*In the Supreme Court of India.*

Special Reference No. of 19 .

In the matter of (*here state the subject matter under reference.*)

and

In the matter of a Special Reference under Article 143 of the Constitution of India.

PRESIDENT OF INDIA, *i.e.*, BHARAT.

To

(Names of parties).

WHEREAS under Article 143 of the Constitution of India, the President has referred the following question (s) of law (or fact) for consideration and report to this Court :—

(*Here set out the question or questions referred*).

Take notice that you are hereby required if you desire to be heard to cause an appearance to be entered for you in the Registry of this Court on or before the day of 19 , and to attend on the said day at o'clock in the forenoon before the Registrar by an Agent or by an Advocate duly instructed by an Agent of the Court to take the directions of the Court with respect to statements of facts and arguments and with respect to the date of the hearing.

Witness , Chief Justice of India the day of in the year one thousand nine hundred and .

Registrar.

No. 21

*Summons to attend Taxation.*

(S.C.R., Order XL, Rule 14.)

*In the Supreme Court of India.*

[*Appellate Jurisdiction*]

[*Original Jurisdiction*]

Appeal / Case No. of 19 .

[A.B.] [*Appellant*]
[State of A.B.] [*Plaintiff*]

*Vs.*

[C. D.] [*Respondent*]
[State of C.D.] [*Defendant*]

Bill No. of 19 . { Here state the names of the parties to the bill.

WHEREAS Mr. E. F., Agent for the appellant [*or as the case may be*] has lodged a bill of costs (copy appended hereto) for taxation as between [party and party and also as between] Agent and client, notice is hereby given that the Taxing Officer of the Court will proceed to tax the said bill on the day of 19 , at o'clock in the forenoon [afternoon] when you may attend the Taxing Officer in his Chambers at the Court House and contest the said bill or any items therein.

Dated this the day of 19 .

Taxing Officer.

---

No. 22

*Certificate of Taxation*

(S.C.R., Order XL)

*In the Supreme Court of India.*

[*Appellate Jurisdiction*]

[*Original Jurisdiction*]

Appeal / Case No. of 19 .

[A.B.] [*Appellant*]
[State of A.B.] [*Plaintiff*]

*Vs.*

[C.D.] [*Respondent*]
[State of C.D.] [*Defendant*]

Bill No. of 19 . { Here state the names of the parties to the bill.

I do hereby certify that I have taxed the above bill of costs, lodged in this Court by Mr. E.F., Agent for appellant [*or as the case may be*] and do allow, as between party and party the sum of [amount in figures and words] and as between Agent and client the sum of [amount in figures and words] only. [The Agent acknowledges to have received the sum of (amount in figures and words) only from the client against this sum].

Dated this the day of 19 .

Taxing Officer.

No. 23

*Notice of Proceedings to Attorney-General for India or Advocate-General (of a State)*
(S.C.R., Order XLI, Rule 1)

*In the Supreme Court of India*
[*Appellate Jurisdiction*]
[*Original Jurisdiction*]

Appeal / Case No. of 19 .

[A.B.] [*Appellant*]
[State of A.B.] [*Plaintiff*]

*Vs.*

[C.D.] [*Respondent*]
[State of C.D.] [*Defendant*]

To

The Attorney-General for India
OR
Advocate-General of a State.

Take notice that the above-named appeal/case has been filed in this Court [and is fixed for hearing on the day of 19 , and shall be taken up for hearing by the Court on that day, at o'clock in the forenoon, or so soon thereafter as may be convenient to the Court] [and shall be fixed for hearing on a suitable date of which due notice will be given to you].

As the appeal/case raises [an] important question(s) (here state briefly the question(s) involved) notice is hereby given to you so that you may appear and take such part in the proceedings before this Court as you may be advised.

Dated this the day of 19 .

Registrar.

---

No. 24

*Affidavit of Service of Summons*
(S.C.R., Order XL, Rule 15)

*In the Supreme Court of India*
[*Appellate Jurisdiction*]
[*Original Jurisdiction*]

Appeal / Case No. of 19 .

[A.B.] [*Appellant*]
[State of A.B.] [*Plaintiff*]

*Vs.*

[C. D.] [*Respondent*]
[State of C. D.] [*Defendant*]

I, of Agent for the above-named , make oath/solemnly affirm and say as follows :—

I did on the day of 19 , serve Mr. Agent for the above-named in this action [or appeal] with a true copy of the summons now produced and shown to me marked A, by leaving it, before

the hour of four in the afternoon, at the [office or dwelling house] of the said situate being the address for service in this action [or appeal] [with his clerk or his servant, or as may be there] or by posting it at the post office at in a duly registered envelope addressed to the said at , being the address for service in this section [or appeal].

Sworn at this day of 19 .
Before me
This affidavit is filed on behalf of the

---

No. 25

*Affidavit for Service by Post.*

(S.C.R., Order XL, Rule 15).

*In the Supreme Court of India*
[*Appellate Jurisdiction*]
[*Original Jurisdiction*]

Appeal

Case No. of 19 .

[A.B.] [*Appellant*]
[State of A.B.] [*Plaintiff*]

*Vs.*

[C.D.] [*Respondent*]
[State of C.D.] [*Defendant*]

I, , Agent for the above-named make oath solemnly affirm and say as follows :—

I did serve the Agent for the above-named in this action [or appeal] [or the above-named if he has appeared in person] with the summons [or notice or other document] now produced and shown to me, marked A, by posting on the day of 19 , at (name of post office) a true copy of the said summons [or as may be] in a prepaid envelope registered for acknowledgment addressed to the said [Agent, or respondent or as may be] at , which is his address for service.

The postal acknowledgment is attached hereto.

Sworn at this day of 19 .
Before me
This affidavit is filed on behalf of the

---

No. 26

*Writ of Commission.*

(S.C.R., Order XLIV)

*In the Supreme Court of India*
[*Original Jurisdiction*]

State of A.B. Case No. of 19 .
[*Plaintiff*]
State of C.D. *Vs.* [*Defendant*]

PRESIDENT OF INDIA, *i.e.*, BHARAT

To

The Commissioner appointed to examine the undermentioned witnesses on behalf of

I, President of India hereby appoint you and give you full power and authority, to swear or affirm and diligently to examine on

interrogatories and *viva voce* as shall be produced before you as witness on behalf of the said in a certain case No. of now pending in the Supreme Court (wherein ) and I further command you that you do at certain days and places to be appointed by you for that purpose of which reasonable notice shall be given to all parties cause the said witness [es] to come before you and then and there examine and cross-examine such witness [es] either upon oath or solemn affirmation, which we hereby give you full power and authority t administer to such witness in the form firstly specified at the foot hereof, and that you do take such examination and reduce the same into writing on paper: and when you shall have so taken the same you are to send the same before the [returnable date as given in the order for the issue of this commission] to the Registrar of the said Supreme Court closed up under your Seal together with such documents as shall be spoken to and marked exhibits and this writ.

And I further empower you to appoint, if necessary, a competent interpreter to interpret such of the proceedings under this commission as you may deem necessary to have interpreted from or into the English language. And I further command you that the interpreter employed in interpreting the depositions of the said witness [es] to be examined by virtue of this writ shall, before he be permitted to act as such interpreter as aforesaid, take the oath or affirmation lastly specified at the foot hereof which I hereby give you power and authority to administer to such interpreter. And I do lastly order that the parties to this suit do appear before you in person or by their agents or pleaders.

Witness

Chief Justice of India, the day of in the year one thousand nine hundred and

Agent for

Agent for

[Names of witnesses to be examined]

Registrar.

NOTE I.—The Commissioner shall not be bound to execute this commission unless such a sum as he thinks reasonable be deposited with him for the expenses of executing the same and also of summoning the witnesses and defraying their travelling and other expenses.

NOTE 2.—After the deposition of any witness has been taken down, and before it is signed by him, it shall be distinctly read over, and, where necessary, translated to the witness in order that mistakes or omissions may be rectified or supplied. The deposition shall be signed by the witness and left with the Commissioner who shall subscribe his name and date of the examination.

*Form of the oath or affirmation to be administered to the witness.*

I swear in the presence of Almighty God [or solemnly affirm] that the evidence which I shall give in this case shall be true, that I will conceal nothing, and that no part of my evidence shall be false.

So help me God.

*Form of the oath or affirmation to be administered to the Interpreter.*

I swear in the presence of Almighty God [or solemnly affirm] that I understand and speak the and English Languages, and that I will well and truly and faithfully interpret, translate and explain to the witness to be produced before the Commissioner, all questions and answers and all such matters as the Commissioner may require me to interpret and explain.

So help me God.

N.B.—The words "so help me God" are to be omitted when an affirmation is administered.

The execution of this commission appears by the Schedule hereunto annexed.

No. 27

*Notice to be served with Writ of Habeas Corpus.*

(S.C.R., Order XXXV)

*In the Supreme Court of India.*

[*If in a cause already commenced here insert the title, not otherwise*]

Whereas this Court [*or* the Honourable Mr. Justice ] has granted a writ of Habeas Corpus directed to [*or* other person having the custody of *if so*] commanding him to have the body of before the said Court [*or* before a Judge in Chambers] at the Supreme Court (*New Delhi,*) immediately to undergo and receive all and singular such matters and things as the Court [*or* the said Judge] shall then and there consider of concerning him in this behalf:

Now, take notice, that you are hereby required to have the body of the said before the said Court [*or* before the said Judge as aforesaid] on the day of , 19 , at the hour of in the fore [*or* after] noon. And to make a return to the said writ. Or in default thereof, the said Court will then, or so soon after as counsel can be heard be moved for an attachment against you for your contempt in not obeying the said writ [*or if in vacation,* that application will then be made to one of the Judges of the said Court for a warrant for your apprehension in order that you may be held to bail to answer for your contempt in not obeying the said writ].

Dated the day of , 19 .

(Signed).....

Agent for

No. 28

*Summons for Writ of Habeas Corpus.*

(S.C.R., Order XXXV)

*In the Supreme Court of India.*

The Hon'ble Mr. Justice , Judge in Chambers.

Upon hearing and upon reading the affidavit of filed herein:

Let all parties concerned attend the Judge in Chambers at the Supreme Court (*New Delhi,*) on the day of , 19 ; at o'clock in the fore [*or* after] noon, to show cause why a writ of Habeas Corpus should not issue directed to to have the body of before a Judge in Chambers at the Supreme Court (, *New Delhi*) immediately after the receipt of such writ to undergo and receive all and singular such matters and things as the said Judge shall then and there consider of concerning him in this behalf.

Dated this the day of , 19 .

Registrar.

No. 29

*Notice of Motion for Writ of Habeas Corpus.*

(S.C.R., Order XXXV)

*In the Supreme Court of India.*

Take notice that the Supreme Court will be moved on the day of , 19 , or so soon after as counsel can be heard on behalf of for an order that a Writ of Habeas Corpus do issue directed to to have the body of before the Supreme Court of India at New Delhi to undergo and receive all and singular such matters and things as the Court shall then and there consider of concerning him in this behalf.

Dated this the day of , 19 .

(Signed).....,

Agent for

Address.

To

.....

---

No. 30

*Notice of adjourned application for Writ of Habeas Corpus when Court directs notice to be given.*

In the matter of A.B.

And in the matter of an application for a Writ of Habeas Corpus.

Take notice that an application for the above writ was made to the Divisional Court of the Supreme Court in the above matter on the day of , 19 , when the said application was adjourned so that notice could be given to you.

Such notice is hereby given to you and the said application will be made on the sitting of the Divisional Court on day, the day of 19 , at o'clock in the fore [*or* after] noon.

Dated this the day of , 19 .

(Signed).....

Agent for

Address.

To

.....

By order of the Court,

P. N. MURTY,

*Registrar, Supreme Court of India.*

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## MINISTRY OF LAW

### NOTIFICATIONS.

*New Delhi, the 26th January* 1950.

**No. F. 43/50-C.**—In pursuance of the provisions of clause (1) of article 76 of the Constitution of India, the President is pleased to appoint Shri Motilal Chimanlal Setalvad, Advocate, to be the Attorney-General of India with effect from the 26th January, 1950.

**No. F. 43/50-C.**—In exercise of the powers conferred by article 76 of the Constitution of India, the President is pleased to make the following rules for regulating the remuneration and duties of the Attorney-General of India, namely :—

1. In these rules, "Attorney-General" means the person appointed under clause (1) of article 76 of the Constitution to be the Attorney-General of India, and includes any person appointed to act as the Attorney-General of India during the absence on leave or deputation, of the permanent incumbent of the office.

2. (1) The Attorney-General shall, except during any period of absence on leave or deputation, be paid a retainer of rupees four thousand per month and an office allowance of rupees thirty-five per month.

(2) The services of a personal assistant and of a jemadar, office accommodation and telephones at his office and residence shall be provided free of cost by Government.

3. The Attorney-General will normally reside at New Delhi.

4. It shall be the duty of the Attorney-General—

(*a*) to advise the Government of India on such legal matters as are referred to him by the Government of India and to perform such other duties of a legal character as are assigned to him from time to time by the Government of India ;

(*b*) to appear on behalf of the Government of India in all cases (including suits, appeals and other proceedings) in the Supreme Court in which the Government of India is concerned ;

(*c*) to represent the Government of India in any reference made by the President to the Supreme Court under article 143 of the Constitution : and

(*d*) to discharge the functions conferred on the Attorney-General by or under the Constitution or under any other law for the time being in force.

5. For the performance of the duties mentioned in paragraph 4, the Attorney-General shall not be paid any fees other than the retainer payable under paragraph 2:

Provided that, if any costs are awarded or allowed to the Government of India in any such case, as is referred to in paragraph 4, such part of the costs as is recovered in respect of fees payable to the Attorney-General, shall be paid to the Attorney-General.

6. The Government of India may require the Attorney-General to appear in any High Court in any case in which the Government of India is concerned ; and a daily fee of sixty gold mohurs shall be payable to the Attorney-General for the days of his absence from headquarters in connection with such appearance, including the days of departure from and arrival back at headquarters.

7. Where the Attorney-General is required, otherwise than under paragraph 6, to leave headquarters in the performance of his official duties, travelling and other allowances on the scale admissible to a Judge of the Supreme Court on tour shall be paid to the Attorney-General for journeys necessarily performed in the course of those duties.

8. The Attorney-General shall not—

(a) advise or hold briefs against the Government of India;

(b) advise or hold briefs in cases in which he is likely to be called upon to advise, or appear for, the Government of India;

(c) defend accused persons in criminal prosecutions without the permission of the Government of India; or

(d) accept appointment as a Director in any company without the permission of the Government of India.

K. V. K. SUNDARAM, *Secy.*

No. L. D. 1284—Legis. 18-49-21, dated Bangalore, the 4th March 1950.

Ordered that the accompanying Amendments to the Indian Aircraft Rules, 1937, published in the *Gazette of India*, dated February 11, 1950, be republished in the *Mysore Gazette* for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Legal Remembrancer and Secretary to Government, Law Department.*

## Ministry of Communications.

*New Delhi, the 2nd February 1950.*

**No. 10-A/1-50 (i).**—In pursuance of sub-rule (2) of rule 3 of the Indian Aircraft Rules, 1937, the Central Government is pleased to direct that the following further amendments shall be made in the notification of the Government of India in the late Department of Communications, No. 10-A/7-(i), dated the 22nd April 1947, namely :—

In the Schedules annexed to the said notification.—

(1) In the First Schedule, for all the entries after the entry relating to the Assistant Director of Licensing and Assistant Director of Training, the following entries shall be substituted, namely :—

| | |
|---|---|
| Controller of Aerodromes ... | 47, 48, 51, 52, 53, 88, 107, 108, 112' 118, 121, 132, 136. |
| Controller of Communications ... | 119. |
| Aerodrome Officer Incharge of Aerodromes ... | 47, 68, 136. |
| Controller of Aeronautical Inspection, Principal Aircraft Inspector Incharge of Inspection Offices and Senior Aircraft Inspector Incharge of Inspection Offices. | 22, 24, 27, 29, 30, 32, 34, 35-A, 36, 38, 43. |
| Principal Aircraft Inspector and Senior Aircraft Inspector. | 22, 24, 27, 29, 30, 32, 34, 36, 38, 43. |
| Communication Officer, Senior Technical Officer and Technical Officer in the Aeronautical Communication Organisation. | 119. |
| Aircraft Inspectors ... | 27, 29, 30, 34. |
| Aircraft Examiners ... | 34. |

(2) In the Second Schedule, after item 35, the following item shall be inserted, namely :—

"35-A. Sub-rule (3) To renew Ground of rule 61 Engineers' licences."

P. K. ROY,
*Deputy Secretary.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore

# PART IV

## Section 2-B

## NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS.

### NOTIFICATIONS.

No. C. 8—Co. 23-49-41 dated Bangalore, 6th April 1950.

In exercise of the powers conferred by Section 3 and clause (a) of sub-section (1) of Section 4 of the Mysore Drugs (Control) Act, 1950 (Mysore Act No. VI of 1950), His Highness the Maharaja is pleased to direct that the following further amendments shall be made in the schedule to notification No. C. 3130—Co. dated 3rd October 1949, namely :—

In respect of the drugs in the said schedule specified in column 1 hereunder, which are manufactured by the Upjohn Company, U. S. A for the prices specified in column 2 of the said schedule, the prices specified in column 2 hereunder shall be substituted :—

**The Upjohn Company, U.S.A.**

| | | Rs. | a. | p. |
|---|---|---|---|---|
| (i) Sulphadiazine tablets 0.5 gm 500's | ... | 127 | 8 | 0 |
| (ii) S. S. Ascorbic Acid 500 mg. 25×5 cc | ... | 65 | 0 | 0 |

By Order of His Highness the Maharaja,

---

No. A. F. 203—Agri. 297-49-2 dated Bangalore, 6th April 1950.

In exercise of the powers conferred by Section 3 of the Mysore Cotton Control Act, 1942, (XII of 1942) His Highness the Maharaja of Mysore is pleased to make the following order :—

**Order.**

(i) No person shall in the Halebid and Madihalli Hoblis of Belur Taluk, Hassan District, cultivate any cotton other than cotton certified as M. A. V. cotton by

the Director of Agriculture or any Officer authorised by him in this behalf.

(ii) No person shall, save in accordance with a license granted by the Director of Agriculture or any officer authorised by him in this behalf, import into the Halebid and Madihalli Hoblis of Belur Taluk more than ten lb. of cotton other than M. A. V. cotton.

(iii) No person shall, save in accordance with a license granted by the Director of Agriculture, sell seeds of M. A. V. cotton to any person in the Hassan District.

This Order shall remain in force for a period of three years from the date of its publication in the *Mysore Gazette*.

By Order of His Highness the Maharaja,

---

No. C. 17—Co. 20-49-5, dated Bangalore, 8th April 1950.

In exercise of the powers conferred by sub-rule (2) of Rule 81 of the Defence of India Rules as applied to Mysore and continued by the Supplies, Services and Miscellaneous Provisions (Temporary Powers) Act 1947 (XX of 1947), His Highness the Maharaja is pleased to direct that the following further amendment shall be made in the Mysore Cotton Textiles (Control) Order 1948, namely:—

In the explanation to sub-clause (2) of clause 23 of the said Order after the words "or to a processor" the words "other than a processor of cloth or yarn produced by a producer having a spinning plant" shall be inserted.

By Order of His Highness the Maharaja,

A. S. KHALEEL,
*Secretary to Government,*
*Food and Agricultural Departments.*

No. L. S. 75—L.W. 4-50-1, dated Bangalore, 8th April 1950.

Draft of the following amendment to the Mysore Shops and Establishments Rules, 1948, which it is proposed to make in exercise of the powers conferred by Section 49 of the Mysore Shops and Establishments Act, 1948, is hereby published for the information of all

persons likely to be affected thereby as required by the said Section.

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Notice is hereby given that the Draft will be taken into consideration on or after 1st June 1950 and that any objection or suggestion that may be received from any person with respect thereto before the aforesaid date will be considered by Government. Objections and suggestions should be addressed to the Secretary to Government, Law Department through the Commissioner of Labour in Mysore, Bangalore.

**Draft.**

In the said rules, Rule 39 shall be renumbered as Rule 40 and before the Rule is so renumbered, the following Rule shall be inserted as Rule 39, *viz.*,—

"Rule 39: The Government may, by Notification in the *Mysore Gazette*, exempt any establishment or class of establishments or person or class of persons from any of the provisions of these Rules, subject to such conditions as may be specified in the Notification; and whoever contravenes any of the conditions so specified shall, for purposes of Rule 40, be deemed to have contravened this Rule."

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Secretary to Government,*
*Law Department.*

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Reg. No. M. 1175

# The Mysore Gazette

(PUBLISHED BY AUTHORITY)

Vol. 85] BANGALORE, THURSDAY, APRIL 20, 1950 [No. 16

## PART IV.

### Section I-B

### ACTS OF PARLIAMENT AND ORDINANCES OF THE PRESIDENT WHICH APPLY TO MYSORE.

NOTIFICATION.

(LEGISLATIVE DEPARTMENT)

No. L.D. 10—Legis. 2-50-1, dated Bangalore, the 5th April 1950.

Ordered that the accompanying Appropriation (Railways) Act, 1950 (XXIII of 1950) published in the *Gazette of India*, dated the 31st March 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Legal Remembrancer and Secretary to Government, Law Department.*

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Received Assent on 29th March 1950.

GOVERNMENT OF INDIA

MINISTRY OF LAW

ACT No. XXIII OF 1950.

# THE APPROPRIATION (RAILWAYS) ACT, 1950.

AN

ACT

*to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of Indian for the service of the year ending on the 31st day of March, 1951, for the purposes of railways.*

BE it enacted by Parliament as follows :—

1. **Short title.**—This Act may be called the Appropriation (Railways) Act, 1950.

2. **Issue of Rs. 2,78,64,64,000 out of the Consolidated Fund of India for the year 1950-51.**—From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of two hundred and seventy-eight crores, sixty-four lakhs and sixty-four thousand rupees towards defraying the several charges which will come in course of payment during the year ending on the 31st day of March, 1951, in respect of the services relating to railways specified in column 2 of the Schedule.

3. **Appropriation.**—The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the year ending on the 31st day of March, 1951.

# SCHEDULE

| No. of Vote | Services and purposes | Sums not exceeding | | |
|---|---|---|---|---|
| | | Voted by Parliament | Charged on the Consolidated Fund | Total |
| | | Rs. | Rs. | Rs. |
| 1 | Railway Board ... ... | 34,43,000 | ... | 34,43,000 |
| 2 | Audit ... ... | 28,76,000 | ... | 28,76,000 |
| 3 | Miscellaneous Expenditure ... ... | 61,52,000 | ... | 61,52,000 |
| 4 | Working Expenses— Administration ... ... | 22,76,77,000 | ... | 22,76,77,000 |
| 5 | Working Expenses— Repairs and Maintenance ... ... | 51,84,68,000 | ... | 51,84,68,000 |
| 6 | Working Expenses— Operating Staff ... ... | 35,52,81,000 | ... | 35,52,81,000 |
| 7 | Working Expenses— Operation (Fuel) ... ... | 28,32,24,000 | ... | 28,32,24,000 |
| 8 | Working Expenses— Operation other than Staff and Fuel ... | 9,97,39,000 | ... | 9,97,39,000 |
| 9 | Working Expenses— Miscellaneous Expenses ... ... | 15,02,26,000 | ... | 15,02,26,000 |
| 9A | Working Expenses— Labour Welfare ... ... | 3,12,68,000 | ... | 3,12,68,000 |
| 10 | Payments to Indian States and Companies ... | 37,40,000 | ... | 37,40,000 |
| 11 | Working Expenses— Appropriation to Depreciation Fund ... | 17,00,00,000 | ... | 17,00,00,000 |
| 12A | Open Line Works— (Revenue) Labour Welfare ... ... | 1,45,21,000 | ... | 1,45,21,000 |
| 12B | Open Line Works— (Revenue) Other than Labour Welfare ... | 2,29,76,000 | ... | 2,29,76,000 |
| 13 | Appropriation to Development Fund ... | 10,00,00,000 | ... | 10,00,00,000 |
| 14 | Appropriation to Revenue Reserve Fund ... | 2,00,65,000 | ... | 2,00,65,000 |
| 15 | Construction of New Lines ... ... | 2,66,31,000 | ... | 2,66,31,000 |
| 16 | Open Line Works— Additions ... ... | 14,33,52,000 | ... | 14,33,52,000 |
| 17 | Open Line Works— Replacements ... ... | 22,72,67,000 | ... | 22,72,67,000 |
| 18 | Open Line Works— Development Fund ... ... | 6,00,00,000 | ... | 6,00,00,000 |
| 19 | Capital Outlay on Vizagapatam Port ... | 10,60,000 | ... | 10,60,000 |
| 20 | Dividend payable to General Revenues ... | 31,84,98,000 | ... | 31,84,98,000 |
| | Grand Total ... | 2,78,64,64,000 | ... | 2,78,64,64,000 |

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

# PART IV

## Section 1-C

## NOTIFICATIONS, RULES, ORDERS, ETC., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

### NOTIFICATIONS.

No. 776—C.B.39-50-1, dated Bangalore, 18th April 1950.

The following Notification No. 31, dated 1st April 1950 by the Government of India, Ministry of Finance (Revenue Division), New Delhi, is republished for general information :—

"In exercise of the powers conferred by sub-section (2) of Section 5 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government is pleased to appoint Shri H. C. Chowdhury to be the Commissioner of Income-tax for the States of Mysore and Travancore-Cochin with effect from the 1st April 1950".

A. V. Venkateswaran,
Deputy-Secretary to the
Government of India.

K. SRINIVASAN,
*Chief Secretary to Government.*

No. C. 28—Co. 22-49-25, dated Bangalore, 11th April 1950.

In exercise of the powers conferred by sub-rule (2) of Rule 81 of the Defence of India Rules as applied to Mysore and continued by the Supplies, Services and Miscellaneous Provisions (Temporary Powers) Act, 1947 (Act XX of 1947) His Highness the Maharaja is pleased to publish the following notification issued by the Textile Commissioner under the Mysore Cotton Control Order, 1949.

By Order of His Highness the Maharaja,

A. S. KHALEEL,
*Secretary to Government,*
*Food and Agriculture Departments.*

No. C. 29—Co. 22-49-26, dated 11th Aptil 1950.

In exercise of the powers conferred on me by paragraph 17 of the Mysore Cotton Control Order, 1949, I hereby direct that the following amendment shall be made in the Textile Commissioner's Notification No. C. 1353—Co. 22-49-23 dated 4th March 1950, namely :—

In the said notification for paragraph 1 the following shall be substituted :—

"1. For the purpose of this order each of the following States shall constitute a zone, namely :—

(i) Bombay
(ii) Punjab
(iii) Madhya Pradesh
(iv) Uttar Pradesh
(v) Madras
(vi) Ajmer
(vii) Bhopal
(viii) Kutch
(ix) Hyderabad
(x) Saurashtra
(xi) Rajasthan
(xii) The Patiala and East Punjab States Union
(xiii) Mysore
(xiv) Madhya Bharat
(xv) Bihar

T. P. BARAT,

*Textile Commissioner, Bombay.*

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# PART IV

## Section 2-B

## NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS.

### NOTIFICATIONS.

(HOME DEPARTMENT)

No. H. 547—Pol. 405-49-2, dated Bangalore, 13th April 1950.

In exercise of the powers conferred by Section 8 of the Mysore Cinematograph Act 1923 (Act XII of 1923) His Highness the Maharaja of Mysore is pleased to direct that the following further amendments shall be made in the Mysore Cinematograph Rules 1946, *viz* :

At the end of the words "feet in length" occuring in condition 9 (*a*) prescribed in Forms A & B of the said Rules, the following words shall be added :

"in the case of cinemas having 35 mm. size projectors and at least 400 feet in the case of cinemas having 16 mm. size projectors".

By Order of His Highness the Maharaja,

K. SRINIVASAN,
*Chief Secretary to Government.*

### *ERRATUM*

No. L. 333—C. M. 57-49-18, dated Bangalore the 11th April 1950.

**Subject** :—Erratum to Notification No. L. 6671—C.M. 57-49-6, dated the 7th January 1950, relating to the reservation of seats for the members of the depressed classes and women for the election of the Councillors to the Corporation of the City of Bangalore.

In the last line under heading "Women" *substitute* the words "Division No. 46" *for* the words "Division No 44".

L. MUNISWAMY,
*Secretary to Government,*
*Local Self-Government Department.*

No. C. 48—C.O. 23-49-43, dated Bangalore, the 13th April 1950.

In exercise of the powers conferred by Section 3 and Clause (*a*) of Sub-section (1) of Section 4 of the Mysore Drugs (Control) Act, 1950 (Mysore Act No. VI of 1950), His Highness the Maharaja is pleased to direct that the following further amendments shall be made in the Schedule to Notification No. C. 3130—C.O. dated the 3rd October, 1949 namely :—

In respect of the drugs in the said Schedule specified in column 1 hereunder, which are manufactured by The Upjohn Company, U. S. A., for the prices specified in column 2 of the said Schedule, the prices specified in column 2 hereunder shall be substituted—

*The Upjohn Company U. S. A.*

| | | Rs. | a. | p. |
|---|---|---|---|---|
| (i) Streptomycin Sulfate 1 gram. | ... | 6 | 4 | 0 |
| (ii) Dihydrostreptomycin 1 gram. | ... | 6 | 4 | 0 |
| (iii) S. S. Ascorbic Acid 100 mg. 25 × 2 cc. | | 33 | 0 | 0 |

By Order of His Highness the Maharaja,

---

No. A.F. 611—Mart. 35-49-2, dated Bangalore, 17th April 1950.

The following draft amendment to the Mysore Agricultural Produce Markets Rules, 1947, which it is proposed to make in exercise of the powers conferred by sub-section (1) of section 6 of the Mysore Agricultural Produce Markets Act, 1939, (Mysore Act No. XVI of 1939), is herewith published for the information of persons likely to be affected thereby, as required by sub-section (4) of the said section.

Notice is hereby given that objections and suggestions, if any, may be forwarded for consideration to the Secretary to Government of Mysore, Food and Agriculture Departments, within fifteen days from the date of publication of this notification in the *Mysore Gazette*.

Objections or suggestions not received within the said period will not be considered.

**Draft.**

In the said rules, for the words and figures "Rs. 1-9-0 per cent" occurring in the Note to sub-rule (2) to rule 55, the figures and words "Rs. 2-0-0 per cent" shall be substituted.

By Order of His Highness the Maharaja,

A. S. KHALEEL,
*Secretary to Government,*
*Food and Agriculture Departments.*

No. L. S. 25—L.W. 98-49-3, dated Bangalore, 5th April 1950.

In exercise of the powers conferred by Section 35-A and 49-F of the Mysore Factories Act, 1936, (Mysore Act No. I of 1936), His Highness the Maharaja of Mysore is pleased to make the following Rules, the same having been published as required by Section 78 of the Act.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Secretary to Government,*
*Law Department.*

## The Mysore Factories (Holidays) Rules.

### I. Preliminary.

1. *Title.*—These rules may be called the Mysore Factories (Holidays) Rules.

2. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context :—

(*a*) "The Act" means the Mysore Factories Act, 1936 (I of 1936).
(*b*) "section" means a Section of the Act.
(*c*) "Chapter" means Chapter IV-A of the Act.
(*d*) "family" means husband, wife and children.
(*e*) "form" means a Form appended to these rules.
(*f*) "register" means the Holidays with Pay Register.

## II. Compensatory Holidays.

3. The compensatory holidays to be allowed under Section 35-A (1) shall be so spaced that not more than two holidays are given in one week.

4. The Manager of the Factory shall display, on or before the end of the month, a notice of the dates on which the compensatory holidays will be given in respect of persons who are to be allowed compensatory holidays during the following month, at the place at which the notice of periods of work, prescribed under Section 39 is displayed. Any subsequent change in the notice in respect of any compensatory holiday shall be made not less then one week in advance of the date of that holiday.

5. (1) The Manager shall maintain a Register in Form A and make a return in Form B within two months of the end of the year or season as the case may be :

Provided that, if the Chief Inspector of Factories is of the opinion that any muster roll or register maintained as part of the routine of the factory, or return made by the Manager, gives in respect of any or all of the workers of the factory, the particulars required for the enforcement of Section 35-A, he may, by order in writing, direct that such muster roll or register or return shall, to the corresponding extent, be maintained in place of and be treated as the register or return, required under this rule for that factory.

(2) The register maintained under sub-rule (1) shall be preserved for a period of three years after the last entry in it and shall be produced before the Inspector on demand.

## III. Holidays with Pay.

6. (1) The employers shall maintain a Holidays with Pay Register in Form C and make a return in Form E, not later than the 1st March of the year subsequent to that to which it relates :

Provided that, if the Chief Inspector of Factories is of the opinion that any muster roll or register maintained as part of the routine of the factory or return made by the employer, gives in respect of any or all the workers in the factory the particulars required for the enforcement of Chapter IV-A, he may, by order in writing, direct that

such muster roll or register or return shall, to the corresponding extent, be maintained in place of and be treated as the register or return required under this rule for that factory.

(2) The register maintained under sub-rule (1) shall be preserved for a period of three years after the last entry in it and shall be produced before the Inspector on demand.

7. (1) The employer shall provide each worker with a book called "Holidays Book" in Form D. The book shall be the property of the worker and the employer or his agent shall not demand it except to make entries of the dates of holidays or interruptions in service, and shall not keep it for more than ten days at a time.

(2) If a worker loses his "Holidays Book" the employer shall on a written application in this behalf together with payment of four annas, provide him with another copy.

8. If so required by the employer in writing the worker shall submit a medical certificate signed by a Registered Medical Practitioner or by a Registered Vaidyan or Hakim or Vaidyan or Hakim employed by the Government or by a Local Body stating the cause of the absence and the period for which the worker is, in his opinion, unable to attend to his work.

9. Before or on the completion of a period of twelve months' continuous service in the factory, as defined in Section 49-B, a worker may give notice to the employer of his intention not to avail himself of holidays falling due in the following period of twelve months. The employer shall make any entry to that effect in the register in respect of that worker and in his Holidays Book.

10. Except in regard to the worker who has given notice of his intention not to avail himself of holidays in the year in which these accrue, the employer shall prepare a programme of holidays stating the date on which holidays with pay shall be allowed to each worker or groups of workers as the case may be including the worker who has accumulated his holidays over two periods of twelve months each and shall give notice of the dates so fixed to each worker. Any date so fixed by the employer shall not, in an individual case, be earlier than three weeks from the date on which notice as aforesaid is given by the

employer unless the worker agrees to take the holidays earlier. The necessary entries shall be made in the Register and the Holidays Book.

11. As far as circumstances permit, members of the same family shall be allowed holidays on the same date.

12. The employer may alter the date fixed for holidays only after giving a notice of four weeks to the worker.

13. The second half of the pay due for the period of holidays shall be paid to the worker not later than the date when the first payment of wages is made after he resumes work.

14. If a worker dies before he resumes work, the balance of his pay due for the period of holidays shall be paid to his nominee within one week of the receipt of intimation of death of the worker.

15. (*a*) Where an exemption is granted under Section 49-G., the Manager shall maintain a register showing the position of each worker as regards holidays due, taken and pay granted.

(*b*) He shall display at the main entrance of the factory a notice giving full details of the system established in the factory for holidays with pay and shall send a copy of it to the Inspector.

(*c*) No alteration shall be made in the Scheme approved by the Government at the time of granting exemption under Section 49-G., without its previous sanction.

16. Every Employer requiring exemption under Section 49-G., from the provisions of Chapter IV-A shall apply to the Secretary to Government, Law Department, through the Chief Inspector of Factories in Mysore, together with two copies of the leave rules in respect of which the application is made.

## FORM A.

Register of workers exempted from the provisions of Section 35 of the Mysore Factories Act.

| Serial Number | Number in the register of workers | Name | Group or relay number | Number and date of exempting order | Year | Weekly rest days last due to the exempting order in | | | | Date of compensatory holidays given in | | | | Lost rest days carried to next year | Remarks |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | January to March | April to June | July to September | October to December | January to March | April to June | July to September | October to December | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 |
| | | | | | | | | | | | | | | | |

## FORM B.

Compensatory holidays—Annual Return.

For the year ending 31st December 195 .

For the Season ending

Name of Factory.

Name of Occupier. Name of Manager,

1. District.
2. Postal Address.
3. Nature of Industry.
4. Number of workers exempted from Section 35 of the Mysore. Factories Act—
   Men.
   Women.
5. Number who received holidays in the—
   (1) same month.
   (2) following month.
   (3) third month.
   (4) fourth month.

## FORM C.

### Register of Holidays With Pay.

Part I—Adults.

Part II—Children.

| Factory Department | | | | | | Interruptions | | | | | | | | Remuneration paid on | | | Discharged worker | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Serial number | Serial number in the Register of adult child worker | Name | Father' name/Ticket number | Nominee's name | Date of entry into service | Sickness and accident | Authorised leave | Lock-out or legal strike | Involuntary unemployment | Others | Holidays due with effect from | Whether holidays not desired during the next twelve months | Date from which the worker is allowed leave | First moiety | Second moiety | Date of discharge | Date and amount of payment made in lieu of holidays due | Remarks |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| | | | | | | | | | | | | | | | | | | |

## FORM D.

### Holiday Book.

Will be same as the Register but will be made out separately for each worker on a thick bound sheet.

FORM E.

Holidays with Pay—annual return for the year ending 31st December 195 .

Name of the Factory.

Name of the Occupier. Name of Manager.

District.
Postal Address.
Name of Industry.

Total number of persons employed during the year—

Men.
Women.
Children.

Number of persons who completed 12 months' continuous service during the year—

Men.
Women.
Children.

Number of persons who were granted holidays during the year—

Men.
Women.
Children.

Number of persons who gave notice not to avail themselves of holidays during the year in which holidays accrued—

Men.
Women.
Children.

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Reg. No. M. 1175

# The Mysore Gazette

(PUBLISHED BY AUTHORITY)

EXTRAORDINARY

BANGALORE, FRIDAY, APRIL 21, 1950.

## PART IV

### Section 1-C

### NOTIFICATIONS, RULES, ORDERS, ETC., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

### NOTIFICATION.

No. L.D. 286—Legis. 5-50-1, dated Bangalore, the 21st April 1950.

Ordered that the accompanying Constitution (Removal of Difficulties) Order, No. II (Amendment) Order (C.O. 11), published in the *Gazette of India*, dated the 10th April 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Legal Remembrancer and*
*Secretary to Government,*
*Law Department.*

MINISTRY OF LAW.

*New Delhi, the 10th April, 1950.*

**S.R.O. 2.**—The following Order made by the President is published for general information :—

THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER, No. II (AMENDMENT) ORDER.

**C.O. 11.**—In exercise of the powers conferred by clause (1) of article 392 of the Constitution of India, the President is pleased to make the following Order, namely :—

(*1*) This Order may be called the Constitution (Removal of Difficulties) Order, No. II (Amendment) Order.

(*2*) It shall be deemed to have come into force on the twenty-sixth day of January, 1950.

2. In Part II of the Schedule to the Constitution (Removal of Difficulties) Order, No. II, in the entry inserting the new article 172A, for the words "shall not apply" in the new article 172A, the following shall be substituted, namely :—

", clause (a) of article 173 and sub-clause (d) of clause (1) of article 191 shall not apply in relation".

RAJENDRA PRASAD,
*President.*

---

K. V. K. SUNDARAM,
*Secretary.*

## NOTIFICATION.

No. L.D. 287—Legis. 5-50-2, pated Bangalore, 21st April 1950.

Ordered that the accompanying Constitution (Distribution of Revenues) Order, 1950 (C.O. 12) published in the *Gazette of India*, dated the 15th April 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Legal Remembrancer and*
*Secretary to Government,*
*Law Department.*

MINISTRY OF LAW.

*New Delhi, 13th April, 1950.*

**S.R.O. 7.**—The following Order made by the President is published for general information :—

## THE CONSTITUTION (DISTRIBUTION OF REVENUES) ORDER, 1950.

**C.O. 12.**—In exercise of the powers conferred by articles 270, 273 and 275 of the Constitution of India and of all other powers enabling him in that behalf, the President is pleased to make the following Order, namely :—

1. This Order may be called the Constitution (Distribution of Revenues) Order, 1950.

2. The General Clauses Act, 1897, applies for the interpretation of this Order as it applies for the interpretation of a Central Act.

3. (1) For the purposes of clause (2) of article 270, one per cent of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of Union emoluments shall be deemed

to represent the proceeds attributable to Part C States in the financial year commencing on the first day of April, 1950.

(2) The percentage of the net proceeds of the taxes on income, except in so far as those proceeds represent proceeds attributable to Part C States or to taxes payable in respect of Union emoluments, which is to be assigned to Part A States and Part B States under the said clause in the said financial year shall be fifty per cent.

(3) The sums falling to be distributed under the said clause in the said financial year among Part A States and Part B States (hereinafter referred to as "the said sums") shall be distributed in the following manner, namely:—

(*a*) each Part B State shall be entitled to receive out of the said sums a sum equivalent to fifty per cent of the net proceeds of the taxes on income other than agricultural income levied and collected by the Government of India in that State in the said financial year:

Provided that if any such State is entitled to receive in the said financial year any grant of financial assistance by the Government of India by virtue of an agreement under clause (1) of article 278, then the sum payable to that State under this sub-paragraph shall be reduced by the amount of the said grant;

(*b*) each Part A State shall be entitled to receive out of the said sums a sum equivalent to fifty per cent of the net proceeds of the taxes on income other than agricultural income levied and collected by the Government of India in the merged territories within that State in the said financial year; and

(*c*) after deducting the sums referred to in sub-paragraphs (*a*) and (*b*) from the said sums, the balance shall be distributed as follows:—

| | | | |
|---|---|---|---|
| Assam | ... | ... | 3 per cent. |
| Bihar | ... | ... | 12·5 ,, |
| Bombay | ... | ... | 21 ,, |
| Madhya Pradesh | ... | ... | 6 ,, |
| Madras | ... | ... | 17·5 ,, |

| | | | |
|---|---|---|---|
| Orissa | ... | ... 3 | per cent. |
| Punjab | ... | .. 5·5 | ,, |
| Uttar Pradesh | ... | ... 18 | ,, |
| West Bengal | ... | ... 13·5 | ,, |

4. In accordance with the provisions of clause (1) of article 273 and clause (1) of article 275, there shall be charged on the Consolidated Fund of India in the said financial year as grants-in-aid of the revenues of each of the States specified below the sum or sums specified against it in addition to any sum payable to that State under either of the provisos to clause (1) of article 275 :—

| | | *Under Article 273* | *Under Article 275* |
|---|---|---|---|
| | | Rs. | Rs. |
| Assam | ... | 40,00,000 | 30,00,000 |
| Bihar | ... | 35,00,000 | Nil |
| Orissa | ... | 5,00,000 | 40,00,000 |
| Punjab | ... | Nil | 75,00,000 |
| West Bengal | ... | 1,05,00,000 | Nil |

RAJENDRA PRASAD,
*President.*

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K. V. K. SUNDARAM,
*Secretary.*

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## NOTIFICATION.

No. L.D. 288—Legis. 5-50-3, dated Bangalore, 21st April 1950.

Ordered that the accompanying Constitution (Determination of Population) Order 1950 (C.O. 13), published in the *Gazette of India*, dated the 15th April 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Legal Remembrancer and*
*Secretary to Government,*
*Law Department.*

MINISTRY OF LAW.

*New Delhi, the 15th April, 1950.*

**S.R.O. 8.**—The following Order made by the President is published for general information :—

## THE CONSTITUTION (DETERMINATION OF POPULATION) ORDER, 1950.

**C.O. 13.**—In exercise of the powers conferred by article 387 of the Constitution of India and of all other powers enabling him in that behalf, the President is pleased to make the following Order, namely :—

1. (1) This Order may be called the Constitution (Determination of Population) Order, 1950.

(2) It shall come into force at once.

2. (1) The General Clauses Act, 1897 (X of 1897) applies for the interpretation of this Order as it applies for the interpretation of a Central Act.

(2) In this Order,—

(*a*) "Census Commissioner" means the Census Commissioner appointed under sub-section (1) of section 4 of the Census Act, 1948 (XXXVII of 1948);

(*b*) "paragraph" means a paragraph of this Order.

3. For the purposes of elections held under the provisions of the Constitution during a period of three years from its commencement,—

(*a*) the population of each State;

(*b*) the population of Scheduled Castes in each Part A State, and in each Part B State other than Jammu and Kashmir,

(*c*) the population of Scheduled Tribes in each Part A State other than Assam and in each Part B State other than Jammu and Kashmir,

(*d*) the population of Scheduled Tribes in Assam excluding the tribal areas thereof,

(*e*) the population of Scheduled Tribes in each autonomous district of Assam, and

(*f*) the population of each autonomous district of Assam, shall be determined in the manner hereinafter provided.

4. (1) As soon as may be after the commencement of this Order, the Census Commissioner shall prepare estimates of the population of every State as on the first day of March, 1950, in each of the following two ways, that is to say,—

(*a*) after taking into account the population of the territory of that State as ascertained at the census of 1941, and such records as are available to him regarding births and deaths in that territory since that census, and also the movement of persons displaced from their original places of residence by reason of the setting up of the Dominions of India and Pakistan, and

(*b*) on the basis of the mathematical projection of the trend indicated by the population figures of that territory as ascertained at the last five decennial censuses, after taking into account the movement of persons referred to in clause (*a*),

and shall then determine the population of the State by taking the average of the two estimates.

(2) The Census Commissioner shall thereafter submit to the President a statement showing the population of each State as so determined, together with an explanatory note as to how the figures of population have been calculated; and the statement shall, on being approved by the President, be notified in the *Gazette of India*.

(3) Such notification shall be conclusive evidence that the statement has been prepared in accordance with the provisions of this paragraph; and for the purposes of the elections referred to in paragraph 3, the population of each State shall be as set out in the statement so notified.

5. (1) After determining the population of each State under paragraph 4, the Census Commissioner shall prepare estimates of each of the other items mentioned in paragraph 3, on the basis—

(*a*) that the population of Scheduled Castes or Scheduled Tribes in the territory of any State or part of a State bears to the total population of the State as determined under paragraph 4 the same proportion which the population, as ascertained at the census of 1941, of those Castes or Tribes in that territory bore to the total population, as so ascertained, of the territories now comprising that State; and

(*b*) that the population of each of the autonomous districts of Assam bears to the total population of that State as determined under paragraph 4 the same proportion which the population, as ascertained at the census of 1941, of the territories now comprising that district bore to the total population, as so ascertained, of the territories now comprising that State:

Provided that if in any particular case the necessary population figures have not been ascertained at the census of 1941, the population figures as ascertained at the census of 1931 shall be taken for determining the said proportion:

Provided further that if in any particular case the necessary population figures have not been ascertained either at the census of 1941 or at the census of 1931, the population in question shall be estimated in such other manner as the President may direct.

11. The registers and records to be maintained with respect to employees and the returns to be furnished by employers.

12. The form or design of any identity card, token or disc for the purpose of identifying any employee, and for the issue, custody and replacement thereof.

13. The fees to be levied for any of the purposes specified in this Schedule.

14. The contraventions or defaults which shall be punishable under sub-section (2) of section 6.

15. The further powers, if any, which may be exercised by Inspectors.

16. The manner in which accumulations in any existing provident fund shall be transferred to the Fund under section 15, and the mode of valuation of any assets which may be transferred by the employers in this behalf.

17. Any other matter which may be necessary or proper for the purpose of implementing the Scheme.

RAJENDRA PRASAD,
*President.*

K. V. K. SUNDARAM,
*Secretary to the Government of India.*

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(2) The Census Commissioner shall thereafter submit to the President a statement showing the estimates of population under sub-paragraph (1) of this paragraph, together with an explanatory note as to how they have been arrived at; and the statement shall, on being approved by the President, be notified in the *Gazette of India.*

(3) Such notification shall be conclusive evidence that the statement has been prepared in accordance with the provisions of this paragraph and for the purposes of the elections referred to in paragraph 3, the population of Scheduled Castes or Scheduled Tribes in any State or part of a State, and the population of any autonomous district of Assam, shall be as set out in the statement so notified.

6. For the purposes of the elections referred to in paragraph 3 and the delimitation of constituencies therefor, the population of any area within a State to be included in a constituency shall, unless in the case of any particular area or class of areas the President otherwise directs, be determined by multiplying the number of voters entered in the provisional electoral rolls of that area by the total population of that State as determined under paragraph 4, and then by dividing the product by the total number of voters entered in the provisional electoral rolls of the whole State.

*Explanation.*—In this paragraph, "provisional electoral rolls" means the electoral rolls which at the commencement of this Order are under preparation for the purposes of the first general elections to the House of the People under the Constitution.

RAJENDRA PRASAD,
*President.*

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K. V. K. SUNDARAM,
*Secretary.*

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## NOTIFICATION.

No. L.D. 289—Legis. 5-50-4, dated Bangalore, 21st April 1950.

Ordered that the accompanying Notification No. 2/12/50-Public, dated 17th April, 1950, published in the *Gazette of India*, dated the 17th April 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Legal Remembrancer and Secretary to Government, Law Department.*

MINISTRY OF HOME AFFAIRS.

*New Delhi, the 17th April, 1950.*

**No. 2/12/50-Public.**—In pursuance of sub-paragraph (2) of paragraph 4 of the Constitution (Determination of Population) Order, 1950, the following statement showing the population of each State as determined by the Census Commissioner under sub-paragraph (1) of the said paragraph, having been approved by the President, is notified for public information :—

*Statement.*

| Name of State | Estimated population (in millions) as on 1st March 1950 |
|---|---|
| PART A— | |
| 1 Assam ... ... | 8·51 |
| 2 Bihar ... ... | 39·42 |
| 3 Bombay ... ... | 32·68 |
| 4 Madhya Pradesh ... ... | 20·92 |
| 5 Madras ... ... | 54·29 |
| 6 Orissa ... ... | 14·41 |
| 7 Punjab ... ... | 12·61 |
| 8 Uttar Pradesh ... ... | 61·62 |
| 9 West Bengal ... ... | 24·32 |

| Name of State | Estimated population (in millions) as on 1st March 1950 |
|---|---|
| PART B— | |
| 1 Hyderabad ... ... | 17·69 |
| 2 Jammu and Kashmir ... ... | 4·37 |
| 3 Madhya Bharat ... ... | 7·87 |
| 4 Mysore ... ... | 8·06 |
| 5 Patiala and East Punjab States Union ... | 3·32 |
| 6 Rajasthan ... ... | 14·69 |
| 7 Saurashtra ... ... | 3·96 |
| 8 Travancore-Cochin ... ... | 8·58 |
| PART C— | |
| 1 Ajmer ... ... | 0·73 |
| 2 Bhopal ... ... | 0·85 |
| 3 Bilaspur ... ... | 0·13 |
| 4 Coorg ... ... | 0·17 |
| 5 Delhi ... ... | 1·51 |
| 6 Himachal Pradesh ... ... | 1·08 |
| 7 Kutch ... ... | 0·55 |
| 8 Manipur ... ... | 0·54 |
| 9 Tripura ... ... | 0·58 |
| 10 Vindhya Pradesh ... ... | 3·88 |

H. V. R. IENGAR,
*Secretary.*

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# The Mysore Gazette

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## PART IV.

### Section I-B

### ACTS OF PARLIAMENT AND ORDINANCES OF THE PRESIDENT WHICH APPLY TO MYSORE.

### NOTIFICATION.

No. L.D. 11—Legis. 2-50-2, dated Bangalore, 5th March 1950.

Ordered that the accompanying Appropriation Act, 1950 (XXIV of 1950), published in the *Gazette of India*, dated the 31st March 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Legal Remembrancer and*
*Secretary to Government,*
*Law Department.*

Received Assent on 30th March 1950

# ACT No. XXIV OF 1950.

## THE APPROPRIATION ACT, 1950.

AN

ACT

*to authorise payment and appropriation of certain sums from and out of the consolidated Fund of India for the service of the year ending on the 31st day of March, 1951.*

BE it enacted by Parliament as follows :—

1. **Short title.**—This Act may be called the Appropriation Act, 1950.

2. **Issue of Rs. 19,24,94,34,000 out of the Consolidated Fund of India for the year 1950-51.**—From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of one thousand nine hundred and twenty-four crores, ninty-four lakhs and thrity-four thousand rupees towards defraying the several charges which will come in course of payment during the year ending on the 31st day of March, 1951, in repect of the services specified in column 2 of the Schedule.

3. **Appropriation.**—The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the year ending on the 31st day of March, 1951.

## SCHEDULE.

| No. of Vote | Services and purposes | Sums not exceeding | | |
|---|---|---|---|---|
| | | Voted by Parliament | Charged on the Consolidated Fund | Total |
| | | Rs. | Rs. | Rs. |
| 1 | Customs ... ... | 2,05,50,000 | ... | 2,05,50,000 |
| 2 | Union Excise Duties ... ... | 4,90,94,000 | ... | 4,90,94,000 |
| 3 | Taxes on Income (including Corporation Tax) ... | 2,68,48,000 | ... | 2,68,48,000 |
| 4 | Opium ... ... | 1,21,02,000 | ... | 1,21,02,000 |
| 5 | Stamps ... ... | 1,12,40,000 | 5,33,000 | 1,17,73,000 |
| 6 | Forest ... ... | 31,42,000 | ... | 31,42,000 |
| 7 | Irrigation (including Working Expenses), Navigation, Embankment and Drainage Works met from Revenue ... .. | 25,50,000 | 91,000 | 26,41,000 |
| 8 | Indian Posts and Telegraphs Department (including Working Expenses) ... ... | 30,08,27,000 | 1,12,72,000 | 31,20,99,000 |
| 9 | Cabinet ... ... | 22,84,000 | ... | 22,84,000 |
| 10 | Parliament ... ... | 28,33,000 | 50,000 | 28,83,000 |
| 11 | Ministry of Home Affairs ... ... | 67,37,000 | ... | 67,37,000 |
| 12 | Ministry of Information and Broadcasting ... | 1,03,01,000 | ... | 1,03,01,000 |
| 13 | Do Law ... ... | 1,45,69,000 | ... | 1,45,69,000 |
| 14 | Do Education ... ... | 34,87,000 | ... | 34,87,000 |
| 15 | Do Agriculture ... .. | 27,08,000 | ... | 27 08,000 |
| 16 | Do Health ... ... | 6,25,000 | ... | 6,25,000 |
| 17 | Do External Affairs ... ... | 51,68,000 | ... | 51,68,000 |
| 18 | Do Finance ... ... | 1,18,88,000 | ... | 1,18,88,000 |
| 19 | Do Commerce ... ... | 58,23,000 | ... | 58,23,000 |
| 20 | Do Labour ... ... | 23,22,000 | ... | 23,22,000 |
| 21 | Do Works, Mines and Power ... | 13,00,000 | ... | 13,00,000 |
| 22 | Do Communications ... ... | 5,28,000 | ... | 5,28,000 |
| 23 | Do Transport ... ... | 24,29,000 | ... | 24,29,000 |
| 24 | Do Food ... ... | 42,23,000 | ... | 42,23,000 |
| 25 | Do States ... ... | 12,84,000 | ... | 12,84,000 |
| 26 | Do Defence ... .. | 31,85,000 | ... | 31,85,000 |
| 27 | Do Industry and Supply ... ... | 22,16,000 | ... | 22,16,000 |
| 28 | Do Rehabilitation ... ... | 14,88,000 | ... | 14,88,000 |
| 29 | Payments to other Governments, Departments, etc., on account of the administration of Agency Subjects, and management of Treasuries ... ... | 16,62,000 | ... | 16,62,000 |
| 30 | Audit ... ... | 3,74,54,000 | 12,30,000 | 3,86,84,000 |
| 31 | Administration of Justice ... ... | 2,71,000 | 9,12,000 | 11,83,000 |
| 32 | Jails and Convict Settlements ... ... | 5,000 | ... | 5,000 |
| 33 | Police ... ... | 48,57,000 | ... | 48,57,000 |
| 34 | Ports and Pilotage ... ... | 44,89,000 | ... | 44,89,000 |
| 35 | Lighthouses and Lightships ... ... | 11,22,000 | ... | 11,22,000 |
| 36 | Ecclesiastical ... ... | 1,000 | ... | 1,000 |
| 37 | Tribal Areas ... ... | 1,20,41,000 | ... | 1,20,41,000 |
| 38 | External Affairs ... ... | 3,39,99,000 | ... | 3,39,99,000 |
| 39 | Survey of India ... ... | 75,99,000 | ... | 75,99,000 |
| 40 | Botanical Survey ... ... | 92,000 | ... | 92,000 |
| 41 | Zoological Survey ... ... | 2,93,000 | ... | 2,93,000 |
| 42 | Geological Survey ... ... | 36,29,000 | ... | 36,29,000 |
| 43 | Mines ... ... | 17,04,000 | ... | 17,04,000 |
| 44 | Archæology ... ... | 35,10,000 | ... | 35,10,000 |
| 45 | Meteorology ... ... | 80,80,000 | ... | 80,80,000 |
| 46 | Department of Scientific Research ... ... | 1,42,35,000 | ... | 1,42,35,000 |
| 47 | Other Scientific Departments ... ... | 1,25,43,000 | ... | 1,25,43,000 |
| 48 | Education .. ... | 1,02,37,000 | ... | 1,02,37,000 |
| 49 | Medical Services ... ... | 33,78,000 | ... | 33,78,000 |
| 50 | Public Health ... ... | 68,65,000 | ... | 68,65,000 |
| 51 | Agriculture ... ... | 1,30,97,000 | ... | 1,30,97,000 |
| 52 | Civil Veterinary Services ... ... | 26,52,000 | ... | 26,52,000 |
| 53 | Industries and Supplies ... ... | 4,33,15,000 | ... | 4,33,15,000 |
| 54 | Salt ... ... | 1,28,94,000 | 2,19,000 | 1,31,13,000 |
| 55 | Overseas Communication Service ... ... | 65,97,000 | 2,50,000 | 68,47,000 |
| 56 | Delhi Transport Service ... ... | 67,78,000 | 1,32,000 | 69,60,000 |
| 57 | Telephone Factory ... ... | 21,57,000 | 3,36,000 | 24,93,000 |
| 58 | Aviation ... ... | 3,20,03,000 | ... | 3,20,03,000 |
| 59 | Broadcasting ... ... | 2,04,75,000 | ... | 2,04,75,000 |
| 60 | Commercial Intelligence and Statistics ... | 55,69,000 | ... | 55,69,000 |
| 61 | Census ... ... | 18,01,000 | ... | 18,01,000 |
| 62 | Joint-Stock Companies ... ... | 4,80,000 | ... | 4,80,000 |

| No. of Vote | Services and purposes | Sums not exceeding | | |
|---|---|---|---|---|
| | | Voted by Parliament | Charged on the Consolidated Fund | Total |
| | | Rs. | Rs. | Rs. |
| 63 | Indian Dairy Department ... | 7,11,000 | ... | 7,11,000 |
| 64 | Miscellaneous Departments ... ... | 1,73,40,000 | ... | 1,73,40,000 |
| 65 | Currency ... ... | 85,68,000 | 2,40,000 | 88,08,000 |
| 66 | Mint ... ... | 87,80,000 | ... | 87,80,000 |
| 67 | Central Road Fund ... ... | 2,90,00,000 | ... | 2,90,00,000 |
| 68 | Communications (including National Highways). | 3,62,50,000 | ... | 3,62,50,000 |
| 69 | Other Civil Works ... ... | 3,28,37,000 | 15,54,000 | 3,43,91,000 |
| 70 | Territorial and Political Pensions ... ... | 28,43,000 | 4,46,26,000 | 4,74,69,000 |
| 71 | Superannuation Allowances and Pensions ... | 2,65,40,000 | 5,04,000 | 2,70,44,000 |
| 72 | Stationery and Printing ... ... | 1,73,83,000 | ... | 1,73,83,000 |
| 73 | Miscellaneous ... ... | 22,88,39,000 | 16,000 | 22,88,55,000 |
| 74 | Expenditure on Displaced Persons ... ... | 6,00,00,000 | ... | 6,00,00,000 |
| 75 | Defence Services—Effective Army ... ... | 1,41,33,37,000 | ... | 1,41,33,37,000 |
| 76 | Do Effective Navy ... ... | 8,47,64,000 | ... | 8,47,64,000 |
| 77 | Do Effective Air Force ... | 14,91,37,000 | ... | 14,91,37,000 |
| 78 | Do Non-effective charges ... | 15,03,50,000 | 4,000 | 15,03,54,000 |
| 79 | Grants-in-aid to States ... ... | 11,56,00,000 | 3,84,00,000 | 15,40,00,000 |
| 80 | Miscellaneous Adjustments between the Union and State Governments ... ... | 1,01,000 | ... | 1,01,000 |
| 81 | Resettlement and Development ... ... | 3,31,68,000 | ... | 3,31,68,000 |
| 82 | Civil Defence ... ... | 1,37,000 | ... | 1,37,000 |
| 83 | Pre-Partition Payments ... ... | 2,00,00,000 | ... | 2,00,00,000 |
| 84 | Delhi ... ... | 1,95,65,000 | ... | 1,95,65,000 |
| 85 | Ajmer ... ... | 80,11,000 | ... | 80,11,000 |
| 86 | Kutch ... ... | 41,55,000 | ... | 41,55,000 |
| 87 | Himachal Pradesh ... ... | 1,38,72,000 | ... | 1,38,72,000 |
| 88 | Bilaspur ... ... | 7,23,000 | ... | 7,23,000 |
| 89 | Bhopal ... ... | 83,96,000 | ... | 83,96,000 |
| 90 | Manipur ... ... ... | 28,21,000 | ... | 28,21,000 |
| 91 | Tripura ... ... | 42,18,000 | ... | 42,18,000 |
| 92 | Andaman and Nicobar Islands ... ... | 1,25,76,000 | ... | 1,25,76,000 |
| 93 | Relations with States ... ... | 47,24,000 | ... | 47,24,000 |
| | Interest on Debt and other Obligations and Reduction or Avoidance of Debt ... ... | ... | 36,50,07,000 | 36,50,07,000 |
| | Staff, Household and Allowances of the President | ... | 15,76,000 | 15,76,000 |
| | Union Public Service Commission ... ... | ... | 16,53,000 | 16,53,000 |
| 94 | Capital Outlay on Forests ... ... | 20,00,000 | ... | 20,00,000 |
| 95 | Do on the Indian Security Press ... | 12,56,000 | ... | 12,56,000 |
| 96 | Do on Indian Posts and Telegraphs (Not met from Revenue) ... | 5,97,26,000 | ... | 5,97,26,000 |
| 97 | Indian Posts and Telegraphs—Stores Suspense (Not met from Revenue) ... ... | 1,000 | ... | 1,000 |
| 98 | Capital Outlay on Industrial Development ... | 9,63,00,000 | ... | 9,63,00,000 |
| 99 | Do Civil Aviation ... ... | 1,49,98,000 | ... | 1,49,98,000 |
| 100 | Do Broadcasting ... ... | 60,00,000 | ... | 60,00,000 |
| 101 | Do Currency ... ... | 1,84,000 | ... | 1,84,000 |
| 102 | Do Mints ... ... | 49,60,000 | ... | 49,60,000 |
| 103 | Delhi Capital Outlay ... ... | 1,75,70,000 | ... | 1,75,70,000 |
| 104 | Capital Outlay on Civil Works ... ... | 2,97,01,000 | ... | 2,97,01,000 |
| 105 | Commuted Value of Pensions ... ... | 42,75,000 | ... | 42,75,000 |
| 106 | Payments to Retrenched Personnel ... ... | 1,000 | ... | 1,000 |
| 107 | Defence Capital Outlay ... ... | 2,15,00,000 | ... | 2,15,00,000 |
| 108 | Capital Outlay on Schemes of State Trading ... | 7,37,22,000 | ... | 7,37,22,000 |
| 109 | Capital Outlay on Development ... ... | 16,90,18,000 | ... | 16,90,18,000 |
| 110 | Interest-free and Interest-bearing Advances ... | 8,39,08,000 | 34,80,75,000 | 43,19,83,000 |
| | Repayment of Debt ... ... | ... | 14,50,47,03,000 | 14,50,47,03,000 |
| | Grand Total ... | 3,92,80,01,000 | 15,32,14,33,000 | 19,24,94,34,000 |

K. V. K. SUNDARAM,

*Secretary to the Government of India.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

# PART IV

## Section 2-B

## NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS.

### NOTIFICATIONS.

(HOME DEPARTMENT)

No. H. 770—Pol. 263-49-18, dated Bangalore, the 19th April 1950.

In exercise of the powers conferred by Section 8 of the Preventive Detention Act, 1950 (IV of 1950), His Highness the Maharaja of Mysore is pleased to constitute an Advisory Board for the purposes of the said Act and to appoint the following persons to be members of the said Board :—

(i) *Rajadharmaprasaktha*
Sri A. R. Nageswara Iyer, B.A., B.L.,
Retired Judge of the High Court of Mysore.

(ii) *Rajadharmaprasaktha*
Sri T. Singaravelu Mudaliar, B.A., B.L.,
Retired Judge of the High Court of Mysore.

By Order of His Highness the Maharaja,

K. SRINIVASAN,
*Chief Secretary to Government.*

No. L.S. 191—L.W. 20-50-3, dated Bangalore, the 19th April 1950.

In exercise of the powers conferred by Section 6 of the Mysore Shops and Establishments Act, (Mysore Act II of 1948), the Rajpramukh His Highness the Maharaja of Mysore is pleased to exempt persons employed in a clerical capacity in a factory from the provisions of the said Act provided such persons are entitled to the benefits to which workers employed in the said factory are entitled.

By Order of His Highness the Maharaja,

No. L.S. 241—L.W. 125-49-4 dated Bangalore, 22nd April 1950.

In exercise of the powers conferred by Section 42 of the Mysore Shops and Establishments Act, 1948, (Mysore Act II of 1948), His Highness the Maharaja of Mysore is pleased to appoint the Assistant Commissioner of Labour, Shimoga Division, to be *ex-officio* Inspector for the purposes of the said Act within the local limits of Shimoga Town.

By Order of His Highness the Maharaja of Mysore,

B. S. PUTTASWAMY,
*Secretary to Government,*
*Law Department.*

No. P.W. 297-99—Irn. 198-49-2, dated Bangalore, the 18th April 1950.

In exercise of the powers vested in them by sub-section I of the Irrigation Act of 1932, Government are pleased to declare that the provisions of Section 25 of the said Act regarding enquiry shall not apply to the work of improving the pick-up weir across the waste weir halla of Dalavoy tank in Marase, Mysore Taluk, the ryots holding lands under the channel having already executed a stamped mutchalika agreeing to pay a contribution of Rs. 150 and a water rate of Rs. 10 per acre.

By Order of His Highness the Maharaja of Mysore,

B. S. NARASINGA RAO,
*Secretary to Government,*
*Public Works Department.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

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Reg. No. M. 1175.

# The Mysore Gazette

(PUBLISHED BY AUTHORITY)

(EXTRAORDINARY)

BANGALORE, SATURDAY, APRIL 29, 1950.

## PART IV

### Section—1-B.

### ACTS OF PARLIAMENT AND ORDINANCES OF THE PRESIDENT WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L.D. 325—Legis. 2-50-6, dated Bangalore, 26th April 1950.

Ordered that the accompanying Administration of Evacuee Property Act, 1950, (XXXI of 1950), published in the *Gazette of India*, dated the 18th April 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Legal Remembrancer and*
*Secretary to Government,*
*Law Department.*

Received assent on 17th April 1950.

ACT No. XXXI of 1950.

# THE ADMINISTRATION OF EVACUEE PROPERTY ACT, 1950.

[AS PASSED BY PARLIAMENT.]

AN

ACT

*to provide for the administration of evacuee property and for certain matters connected therewith.*

BE it enacted by Parliament as follows :—

## CHAPTER I.

### PRELIMINARY.

1. *Short title and extent.*—(1) This Act may be called the Administration of Evacuee Property Act, 1950.

(2) It extends to the whole of India except the States of Assam, West Bengal, Tripura, Manipur and Jammu and Kashmir.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) "allotment" means the grant by a person duly authorised in this behalf of a right of use or occupation of any immovable evacuee property to any other person; but does not include a grant by way of lease ;

(*b*) "Custodian-General" means the Custodian-General of Evacuee Property in India appointed by the Central Government under section 5 ;

(*c*) "Custodian" means the Custodian for the State, and includes any Additional, Deputy or Assistant Custodian of evacuee property appointed in that State ;

(*d*) "evacuee" means any person,—

(*i*) who, on account of the setting up of the Dominions of India and Pakistan or on account of civil disturbances or the fear of such disturbances, leaves or has, on or after the 1st day of March, 1947, left, any place in a State for any place outside the territories now forming part of India, or

(*ii*) who is resident in any place now forming part of Pakistan and who for that reason is unable to occupy, supervise or manage in person his property in any part of the territories to which this Act extends, or whose property in any part of the said territories has ceased to be occupied, supervised or managed by any person or is being occupied, supervised or managed by an unauthorised person, or

(*iii*) who has, after the 14th day of August, 1947, obtained, otherwise than by way of purchase or exchange, any right to, interest in or benefit from any property which is treated as evacuee or abandoned property under any law for the time being in force in Pakistan ;

*Explanation.*—For the purposes of sub-clause (*iii*), the acquisition of any right to, interest in or benefit from any such property as is referred to in that sub-clause by a firm, private limited company or trust of which any person or any member of the family of such person wholly dependent on him for the ordinary necessaries of life is a partner, member or beneficiary, as the case may be, shall be deemed to be an acquisition by that person within the meaning of that sub-clause.

(*e*) "intending evacuee" means any person who, after the 14th day of the August, 1947,—

(*i*) has transferred to Pakistan his assets or any part thereof situated in any part of the territories to which this Act extends:

Provided that the transfer to Pakistan of any reasonable sum of money in accordance with the rules made in this behalf by the Central Government, for the purpose of financing any transaction in the ordinary course of his trade or for the maintenance of any member of the family of such person shall not be deemed to be a transfer of assets within the meaning of this sub-clause, or

(*ii*) has acquired, if the acquisition has been made in person, by way of purchase or exchange, or if the acquisition has been made by or through a member of his family, in any manner whatsoever, any right to, interest in, or benefit from any property, which is treated as evacuee or abandoned property under any law for the time being in force in Pakistan,

*Explanation.*—For the purposes of sub-clause (*ii*), the acquisition of any right to, interest in or benefit from any such property as is referred to in that sub-clause by a firm, private limited company or trust of which any person is a partner, member or beneficiary, as the case may be, shall be deemed to be an acquisition by that person within the meaning of that sub-clause; or

(*iii*) has, by the execution of any document of transfer in writing, whether registered or not, or by means of any other document in writing, sought to effect an exchange of the whole or any part of his property situated in any part of the territories to which this Act extends, with any property situated in Pakistan;

and includes any person against whom an intention to settle in Pakistan is established from his conduct or from documentary evidence.

(*f*) "evacuee property" means any property in which an evacuee has any right or interest (whether personally or as a trustee or as a beneficiary or in any other capacity), and includes any property—

(1) which has been obtained by any person from an evacuee after the 14th day of August, 1947, by any mode of transfer, unless such transfer has been confirmed by the Custodian, or

(2) belonging to any person who, after the 18th day of October, 1949, has done or does any of the acts specified in clause (*e*) of section 2, or in which any such person has any right or interest, to the extent of such right or interest,

but does not include—

(*i*) any ornament and any wearing apparel, cooking vessels or other household effects in the immediate possession of an evacuee;

(*ii*) any property belonging to a joint-stock company, the registered office of which was situated before the 15th day of August, 1947, in any place now forming part of Pakistan and continues to be so situated after the said date;

(*g*) "member of the family" means any member of the family of any person who is wholly dependent upon the earnings of such person for the provision of the ordinary necessaries of life or who shares with such person in the ordinary expenses of the household to which they jointly belong or who owns property or carries on business jointly with such person;

(*h*) "prescribed" means prescribed by rules made under this Act;

(*i*) "property" means property of any kind, and includes any right or interest in such property;

(*j*) "unauthorised person" means any person (whether duly empowered in this behalf by the evacuee or otherwise) who, after the 14th day of August, 1947, has been occupying, supervising or managing the property of an evacuee without the approval of the Custodian.

3. *References to enactments not in force in Part B States.*—In the applicatiod of this Act to any Part B State, unless the context otherwise requires, references to any enactment in force in Part A States but not in force in that Part B State shall be construed as references to the corresponding enactment, if any, in force in that Part B State.

4. *Act to override other laws.*—The provisions of this Act and of the rules ant orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrumenn having effect by virtue of any such law.

## CHAPTER II.

### EVACUEE PROPERTY AND VESTING THEREOF IN THE CUSTODIAN.

5. *Appointment of Custodian-General, Deputy Custodians-General, etc.*—The Central Government may, by notification in the Official Gazette, appoint a Custodian-General and as many Deputy and Assistant Custodians-General as may be necessary for the purpose of discharging the duties imposed upon the Custodian-General and the Deputy and Assistant Custodians-General by or under this Act.

6. *Appointment of Custodians, etc.*—(1) The State Government may, in consul tation with the Custodian-General, by notification in the Official Gazette, appoin for the State a Custodian, and as many Additional, Deputy or Assistant Custodians of evacuee property as may be necessary for the purpose of discharging the duties imposed on the Custodian by or under this Act.

(2) Subject to the provisions of this Act, all Custodians, Additional, Deputy or Assistant Custodians of evacuee property shall discharge the duties imposed on them by or under this Act under the general superintendence and control of the Custodian-General.

(3) Subject to the provisions of sub-section (2), Additional, Deputy and Assistant Custodians shall discharge the duties imposed on them by or under

this Act under the general superintendence and control of the Custodian for the State, but the State Government may, by general or special order, provide for the distribution of work among them.

7. *Notification of evacuee property.*—(1) Where the Custodian is of opinion that any property is evacuee property within the meaning of this Act, he may, after causing notice thereof to be given in such manner as may be prescribed to the persons interested, and after holding such inquiry into the matter as the circumstances of the case permit, pass an order declaring any such property to be evacuee property.

(2) Where a notice has been issued under sub-section (1) in respect of any property, such property shall, pending the determination of the question whether it is evacuee property or otherwise, be incapable of being transferred of charged in any way, except with the leave of the Custodian, and no person shall be capable of taking any benefit from such transfer or charge except with such leave.

(3) The Custodian shall, from time to time, notify, either by publication in the Official Gazette or in such other manner as may be prescribed, all properties declared by him to be evacuee properties under sub-section (1).

8. *Vesting of evacuee property in the Custodian.*—(1) Any property declared to be evacuee property under section 7 shall be deemed to have vested in the Custodian for the State,—

(*a*) in the case of the property of an evacuee as defined in sub-clause (*i*) of clause (*d*) of section 2, from the date on which he leaves or left any place in a State for any place outside the territories now forming part of India ;

(*b*) in the case of the property of an evacuee as defined in sub-clause (*ii*) of clause (*d*) of section 2, from the 15th day of August, 1947 ; and

(*c*) in the case of any other property, from the date of the notice given under sub-section (1) of section 7 in respect thereof.

(2) Where immediately before the commencement of this Act, any property in a State had vested as evacuee property in any person exercising the powers of Custodian under any law repealed hereby, the property shall, on the commencement of this Act, be deemed to be evacuee property declared as such within the meaning of this Act and shall be deemed to have vested in the Custodian appointed or deemed to have been appointed for the State under this Act, and shall continue to so vest :

Provided that where at the commencement of this Act there is pending before the High Court, the Custodian or any other authority for or in any State any proceeding under section 8 or section 30 of the Administration of Evacuee Property Ordinance, 1949 (XII of 1949), or under any other corresponding law repealed by the Administration of Evacuee Property Ordinance, 1949 (XXVII of 1949), then notwithstanding anything contained in this Act or in any other law for the time being in force, such proceeding shall be disposed of as if the definitions of 'evacuee property' and 'evacuee' contained in section 2 of this Act had become applicable thereto.

(3) Where any property in a State belonging to a joint-stock company had vested in any person exercising the powers of a Custodian under any law previously in force, then nothing contained in clause (*f*) of section 2 shall affect the operation of sub-section (2), but the State Government may, by notification in the Official Gazette, direct that the Custodian shall be divested of any such property in such manner and after such period as may be specified in the notification.

(4) Where after any evacuee property has vested in the Custodian any person is in possession thereof, he shall be deemed to be holding it on behalf of the Custodian and shall on demand surrender possession of it to the Custodian or to any other person duly authorised by him in this behalf.

9. *Power of Custodian to take possession of evacuee property vested in him.*—If any person in possession of any evacuee property refuses or fails on demand to surrender possession thereof to the Custodian or to any person duly authorised by him in this behalf, the Custodian may use or cause to be used such force as may be necessary for taking possession of such property and may, for this purpose, after giving reasonable warning and facility to any woman not appearing in public to withdraw, remove or break open any lock, bolt or any door or do any other act necessary for the said purpose.

10. *Powers and duties of the Custodian generally.*—(1) Subject to the provisions of any rules that may be made in this bealf, the Custodian may take such measures as he considers necessary or expedient for the purposes of securing, administering, preserving and managing any evacuee property and generally for the purpose of enabling him satisfactorily to discharge any of the duties imposed on him by or under this Act and may, for such any such purpose as aforesaid, do all acts and incur all expenses necessary or incidental thereto.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Custodian may, for any of the purposes aforesaid,—

(a) carry on the business of the evacuee;

(b) appoint a manager for the property of the evacuee or for carrying on any business or undertaking of the evacuee and authorise the manager to exercise any of the powers of the Custodian under this section;

(c) enter, or authorise any other person to enter, any land or premises to inspect any evacuee property;

(d) take all such measures as may be necessary to keep any evacuee property in good repair;

(e) complete any building which has vested in him and which requires to be completed;

(f) require any person, notwithstanding anything to the contrary contained in any other law for the time being in force relating to the disclosure of any information by a public servant or any other person, to furnish such returns, accounts or other information in relation to any property and to produce such documents in his possession as the Custodian considers necessary for the discharge of his duties under this Act;

(g) require any banking company to furnish such information as the Custodian may require with respect to remittances made after the 14th day of August, 1947, to any such area outside India as may be specified by the Custodian, either generally, or with reference to any person or class of persons;

(h) search any building or place in which the Custodian has reason to believe that any evacuee property or any document tending to show that any person is an evacuee or that any property is evacuee property is being kept or concealed and take possession thereof;

(*i*) take such action as may be necessary for the recovery of any debt due to the evacuee;

(*j*) institute, defend or continue any legal proceeding in any civil or revenue court on behalf of the evacuee or refer any dispute between the evacuee and any other person to arbitration or compromise any claims, debts or liabilities on behalf of the evacuee;

(*k*) raise on the security of the evacuee property such loans as may be necessary;

(*l*) in any case where the evacuee property which has vested in the Custodian consists of a share or shares in a company, exercise, notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913), or in the articles of association of the company, the same rights in the matter of making a requisition for the convening of a meeting or of presenting a petition to the Court under the provisions of the Indian Companies Act, 1913, or the articles of association of the company or in any other matter as the evacuee shareholder himself could have done had he been present, although the name of the Custodian does not appear in the register of members of the company;

(*m*) incur any expenditure, including the payment of taxes, duties, cesses and rates to Government or to any local authority or of any amounts due to any employee of the evacuee or of any debt due by the evacuee to any person;

(*n*) pay to the evacuee, or to any member of his family or to any other person as in the opinion of the Custodian is entitled thereto, any sums of money out of the funds in his possession;

(*o*) transfer in any manner whatsoever any evacuee property, notwithstanding anything to the contrary contained in any law or agreement relating thereto:

Provided that the Custodian shall not sell any immovable property or any business or other undertaking of the evacuee, except with the previous approval of the Custodian-General;

(*p*) invest any money held by him in any of the securities approved by the Central Government or in the prescribed manner;

(*q*) delegate, by general or special order, all or any of his functions under this Act to such officers or persons as he thinks fit:

Provided that the Custodian shall not delegate any of his functions under clause (*g*) or clause (*h*) to any officer or person below the rank of an Assistant Custodian.

11. *Special provisions with respect to certain trust properties.*—(*1*) Where any evacuee property which has vested in the Custodian is property in trust for a public purpose of a religious or charitable nature, the property shall remain vested in the Custodian only until such time as fresh trustees are appointed in the manner provided by law, and pending the appointment of fresh trustees the trust property and the income thereof shall be applied by the Custodian for fulfilling, as far as possible, the purpose of the trust.

*Explanation.*—In this sub-section 'property in trust for a public purpose of a religious or charitable nature' includes a public *wakf* and the expression 'trustee' includes a *mutawalli* of such *wakf*.

(2) In respect of any *Wakf-alal-aulad*,—

(a) where the *mutawalli* is an evacuee, the property forming the subject-matter of the *wakf* shall vest in the Custodian subject to the rights of the beneficiaries under the *wakf*, if any, who are not evacuees;

(b) where not all the beneficiaries are evacuees, the rights and interests of such of the beneficiaries as are evacuees shall alone vest in the Custodian.

12. *Power to vary or cancel leases or allotments of evacuee property.*—(1) Notwithstanding anything contained in any other law for the time being in force, the Custodian may cancel any allotment or terminate any lease or amend the terms of any lease or agreement under which any evacuee property is held or occupied by a person, where such allotment, lease or agreement has been granted or entered into after the 14th day of August, 1947.

(2) Where by reason of any action taken under sub-section (1), any person has ceased to be entitled to possession of any evacuee property, he shall on demand by the Custodian surrender possession of such property to the Custodian or to any person duly authorised by him in this behalf.

(3) If any person fails to surrender possession of any property on demand under sub-section (2), the Custodian may, notwithstanding anything to the contrary contained in any other law for the time being in force, eject such person and take possession of such property in the manner provided in section 9.

13. *Payments to Custodian to be valid discharge.*—(1) Any amount due to any evacuee in respect of any property which has vested in the Custodian or in respect of any transaction entered into by the evacuee, shall be paid to the Custodian by the person liable to pay the same.

(2) Any payment made otherwise than in accordance with sub-section (1) shall not discharge the person paying it from his obligation to pay the amount due, and shall not affect the right of the Custodian to enforce such obligation against any such person.

14. *Recouping of expenditure by Custodian.*—Any expenditure incurred by the Custodian in the exercise of any power conferred by or under this Act shall, in relation to any evacuee property in respect of which it has been incurred, be a charge on such property and shall, subject to the provisions of section 51, have priority over all other charges on the property, and such expenditure may be met or recouped by the Custodian out of the income accruing from such property or the sale proceeds thereof.

15. *Maintenance of accounts by Custodian.*—(1) The Custodian shall maintain a separate account of the property of each evacuee-possession whereof has been taken by him, and shall cause to be made therein entries of all receipts and expenditure in respect thereof.

(2) The accounts shall be maintained in such form and in such manner as may be prescibed.

(3) The State Government shall cause the accounts maintained under this section to be inspected and audited at such intervals and by such persons as may be prescribed.

16. *Restoration of property.*—(*1*) The Custodian may, on application made to him in this behalf in writing by an evacuee or any person claiming to be the heir of an evacuee, restore, subject to such terms and conditions as he may think fit to impose, the evacuee property to which the evacuee or other person would have been entitled if this Act were not in force :

Provided that the applicant produces in support of his application a certificate from the Central Government, or from any person authorised by it in this behalf, to the effect that the evacuee property may be so restored if the applicant is otherwise entitled thereto.

(*2*) On receipt of an application under sub-section (*1*), the Custodian shall cause public notice thereof to be given in the prescribed manner and, after holding a summary inquiry into the claim in such manner as may be prescribed, may—

(*a*) make a formal order declaring that the property shall be restored to the applicant ; or

(*b*) reject the application ; or

(*c*) refer the applicant to a civil court for the determination of his claim and title to the property :

Provided that no order for restoration shall be made under this section, unless provision has been made in the prescribed manner for the recovery of any amount due to the Custodian in respect of the property or the management thereof.

(*3*) Upon the restoration of the property to the evacuee or to the heir, as the case may be, the Custodian shall stand absolved of all responsibilites in respect of the property so restored, but such restoration shall not prejudice the rights, if any, in respect of the property which any other person may be entitled to enforce against the person to whom the property has been so restored :

Provided that every lease granted in respect of the property by or on behalf of the Custodian shall have effect against the person to whom restoration is made until such lease is determined by lapse of time or by operation of law.

(*4*) The Custodian shall, on demand, furnish to the evacuee or to the heir, as the case may be, a statement containing an abstract of the account of the income received and expenditure incurred in respect of the property.

## CHAPTER III

### CERTAIN CONSEQUENCES OF PROPERTY VESTING IN CUSTODIAN

17. *Exemption from attachment, sale, etc.*—(*1*) Save as otherwise expressly provided in this Act, no property which has vested in the Custodian shall be liable to attachment, distress or sale in execution of an order of a court or of any other authority, and no injunction in respect of any such property shall be granted by any court or other authority.

(*2*) Save as otherwise expressly provided in this Act, any attachment or injunction subsisting on the commencement of this Act in respect of any evacuee property which has vested in the Custodian shall cease to have effect on such commencement, and any transfer of evacuee property under orders of a court or any other authority made after the 1st day of March, 1947, shall be set aside, if

an application is made to such court or authority by or at the instance of the Custodian within six months from the commencement of this Act.

18. *Occupancy or tenancy right not to be extinguished.*—Nothing contained in any other law for the time being in force shall be deemed to extinguish the right of occupancy in any land or the site of any house or other building of an evacuee which has vested in the Custodian and, notwithstanding anything contained in any such law, neither the evacuee nor the Custodian. whether as an occupancy tenant or as a tenant for a fixed term of any land or the site of any house or other building, shall be liable to be ejected or deemed to have become so liable on any ground whatsoever for any default of the Custodian.

## CHAPTER IV

### PROPERTY OF INTENDING EVACUEES

19. *Declaration of person as intending evacuee.*—(*1*) Where the Custodian has reason to believe that a person is an intending evacuee, he may, by notice served in the prescribed manner, call upon such person to show cause why he should not be declared an intending evacuee, and shall, after holding such inquiry into the matter as the circumstances thereof permit, and after taking such evidence as may be produced by or on behalf of the person showing cause, pass an order (stating the reasons therefor) either declaring such person to be an intending evacuee or closing the case.

(*2*) Any declaration made under sub-section (*1*) shall be published in the Official Gazette.

(*3*) The Custodian may, pending determination of the question whether any person is an intending evacuee or otherwise, attach in the prescribed manner any property in the State in which such person has a right or interest and during the pendency of such attachment, the property shall be incapable of being transferred or charged in any way, except with the leave of the Custodian, and no person shall be capable of taking any benefit from such transfer or charge except with such leave.

20. *Consequences of declaration that a person is an intending evacuee.*—No person, in respect of whom a declaration has been made under section 19 that he is an intending evacuee, shall transfer in any manner whatsoever any immovables property, in which he has any right or interest, situated in any part of the territories to which this Act extends, except with the previous approval of the Custodian, and any transfer made in contravention of the provisions of this section shall be void and of no effect.

21. *Powers of Custodian generally in respect of property of intending evacuees.*—For the purposes of preserving any property in which any person in respect of whom a declaration has been made under section 19 that he is an intending evacuee has any right or interest, the Custodian may,—

(*a*) by order in writing, require any such person to furnish such returns accounts or other information in relation to any such property and to produce such documents in his possession as the Custodian may require;

(*b*) inspect the books of account or other documents maintained by or in the possession of such person;

(c) pass such orders or direct such action to be taken in relation to any such property as may be considered by him to be necessary;

(d) by order in writing, prohibit the transfer to Pakistan of any sum of money belonging to any such person or permit such transfer subject to such conditions and restrictions as the Custodian may think fit to impose.

22. *Declaration of property of intending evacuee as evacuee property in certain cases.*—If the Custodian is satisfied :—

(a) that any person in respect of whom a declaration has been made under section 19 that he is an intending evacuee, has made a transfer of any property in contravention of section 20, or has failed to comply with any order made under clause (c) or clause (d) of section 21; or

(b) after such enquiry as may be prescribed, that the circumstances relating to any person, in respect of whom a declaration has been so made on the ground that after the 14th day of August, 1947, and before the 18th day of October, 1949, he had done any of the acts specified in sub-clauses (i) to (iii) of clause (e) of section 2, are such as may be prescribed as constituting a preparation for his migrating to Pakistan,

the Custodian may declare any property situated in the State in which such person has any right or interest to be evacuee property, and on the issue of such notification any property specified in the notification shall be deemed to be evacuee property which has vested in the Custodian within the meaning of this Act.

*Explanation.*—The following shall be deemed to be some of the circumstances prescribed under clause (b), namely—

(i) the transfer to Pakistan by any person referred to in that clause of a substantial portion of his assets situated in any part of the territories to which this Act extends, or

(ii) the acquisition of, or the declaration of an intention to acquire, Pakistan nationality by any such person.

23. *Intending evacuee acquiring evacuee or abandoned property in Pakistan for inadequate consideration to make good the deficiency.*—(1) Where any person in respect of whom a declaration has been made under section 19 that he is an intending evacuee has either personally or through any other agency required, whether before or after the commencement of this Act, any right to, interest in or benefit from any property which is treated as evacuee or abandoned property under any law for the time being in force in Pakistan for a consideration which, in the opinion of the Custodian, is neither reasonable nor adequate, the Custodian may, after notice to such person and after affording him a reasonable opportunity of being heard and after holding such inquiry as the circumstances of the case permit, determine, by order in writing, the amount, if any, by which the consideration, in his opinion, falls short of the real value of the property so acquired, and require such person to pay the amount to the Custodian within such time as may be specified in the order.

(2) If the amount is not paid within the time specified, or within such further time as the Custodian may allow, the Custodian may take possession of so much of the property of such intending evacuee as would be sufficient to cover the amount in the case of movable property, or as would afford a reasonable security for the recovery of the amount in the case of immovable property.

(3) The Custodian may, for the purpose of realising any amount payable by such intending evacuee under the provisions of this section, transfer in any manner whatsoever any immovable property which has been taken possession of by him under sub-section (2).

## CHAPTER V.

### APPEALS, REVIEW AND REVISION.

24. *Appeals from orders under sections 7, 16, 19 and 40.*—(1) Any person aggrieved by an order made under section 7, section 16, section 19 or section 40 may prefer an appeal in such manner and within such time as may be prescribed,—

(a) to the Custodian, where the original order has been passed by a Deputy or Assistant Custodian;

(b) to the Custodian-General, where the original order has been passed by the Custodian, an Additional Custodian or an Authorised Deputy Custodian:

Provided that where the appeal is preferred on the ground that the person aggrieved is not an evacuee within the meaning of sub-clause (iii) of clause (d) of section 2, or that the property is not evacuee property within the meaning of sub-clause (2) of clause (f) of section 2, the appeal shall be preferred in the manner prescribed in section 25.

(2) The Custodian to whom an appeal is preferred under clause (a) of sub-section (1) may dispose of it himself or may make it over for disposal to an Additional Custodian or to a Deputy Custodian authorised by the Custodian in writing in this behalf (in this Chapter referred to as the Authorised Deputy Custodian):

Provided that no appeal from an order of a Deputy Custodian shall be made over for disposal to the Authorised Deputy Custodian.

25. *Appeals from other orders.*—(1) Any person aggrieved by an order,—

(a) under section 7 declaring his property as evacuee property on the ground that he is an evacuee within the meaning of sub-clause (iii) of clause (d) of section 2, or that the property is evacuee property within the meaning of sub-clause (2) of clause (f) of section 2, or

(b) under section 22 declaring any property of an intending evacuee to be evacuee property,

may prefer an appeal, in such manner and within such time as may be prescribed, to the District Judge nominated in this behalf by the State Government.

(2) For the purpose of hearing any appeal under sub-section (1) the State Government shall nominate one or more District Judges and define the local limits of their jurisdiction.

26. *Powers of review or revision of Custodian, etc.*—(1) The Custodian, Additional Custodian or Authorised Deputy Custodian may at any time, either on his own motion or on application made to him in this behalf, call for the record of any proceeding under this Act which is pending before, or has been disposed of by an officer subordinate to him for the purpose of satisfying himself as to the legality or propriety of any orders passed in the said proceeding, and may pass such order in relation thereto as he thinks fit:

Provided that the Custodian, Additional Custodian or Authorised Deputy Custodian shall not pass an order under this sub-section revising or modifying any order prejudicial to any person without giving such person a reasonable opportunity of being heard:

Provided further that if one of the officers aforesaid takes action under this sub-section, it shall not be competent for any other officer to do so :

(2) The Custodian, Additional Custodian or Authorised Deputy Custodian (but not a Deputy or an Assistant Custodian) may, after giving notice to the parties concerned, review his own order.

(3) The Custodian, Additional Custodian or Authorised Deputy Custodian may from time to time, on application made to him in this behalf, review any declaration made by him in relation to any intending evacuee:

Provided that no such application shall be entertained unless—

(a) where an appeal or any other proceeding in respect of such declaration is pending under this Act, six months have elapsed from the date of the decision in such appeal or other proceeding, or

(b) where no appeal has been preferred, six months have elapsed from the date on which the time prescribed for the filing of an appeal under this Act in respect of such declaration would have expired.

Provided further that every declaration made in review under this sub-section shall not take effect unless confirmed by the Custodian-General.

27. *Powers of revision of Custodian-General.*— (1) The Custodian-General may at any time, either on his own motion or on application made to him in this behalf, call for the record of any proceeding in which any District Judge or Custodian has passed an order for the purpose of satisfying himself as to the legality or propriety of any such order and may pass such order in relation thereto as he thinks fit.

Provided that the Custodian-General shall not pass an order under this sub-section prejudicial to any person without giving him a reasonable opportunity of being heard.

(2) Notwithstanding anything contained in sub-section (1), where in respect of any proceeding called for under sub-section (1), the Custodian-General is of opinion that the District Judge is in error in holding any person not to be an evacuee or any property not to be evacuee property, he shall not pass any order in relation thereto but shall refer the matter, with his own opinion thereon, to the High Court to which the District Judge is otherwise subordinate.

(3) Any reference made under sub-section (2) shall be heard by a Bench of the High Court consisting of not less than two Judges, and the Custodian-General shall dispose of the proceeding in accordance with the decision of the High Court.

28. *Finality of orders under this Chapter.*—Save as otherwise expressly provided in this Chapter, every order made by the Custodian-General, District Judge, Custodian, Additional Custodian, Authorised Deputy Custodian, Deputy Custodian or Assistant Custodian shall be final and shall not be called in question in any Court by way of appeal or revision or in any original suit, application or execution proceeding.

## CHAPTER VI.

### PENALTIES AND PROCEDURE.

29. *Penalty for failure to surrender possession of evacuee property.*—Any person who fails to comply with a notice or demand by or on behalf of the Custodian under the provisions of this Act to surrender possession of any evacuee property shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

30. *Penalty for wrongfully paying or receiving rents, etc.*—Any person who pays to or receives from any other person any sum of money in respect of any property which he knows or has reason to believe to be evacuee property shall be punishable with imprisonment for a term which may extend to six months or with fine, or with both.

Provided that nothing contained in this section shall apply to render punishable any payment made to or received by the Custodian.

31. *Penalty for concealing evacuee property.*—Any person who wilfully conceals any property which he knows or has reason to believe to be evacuee property shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both :

32. *Penalty for causing damage to evacuee property.*—Any person who wilfully destroys or causes damage to any evacuee property or unlawfully converts it to his own use shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

33. *Penalty for false declaration in certain cases.*—Any person who—

(*i*) for the purpose of obtaining an allotment or lease of any evacuee property, makes a declaration or statement which is false or which he either knows or has reason to believe to be false, or does not believe to be true, or

(*ii*) furnishes any return, account of information which is material to any of the purposes of this Act and which is false or which he either knows or has reason to believe to be false or does dot believe to be true,

shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

34. *Penalty for offences not expressly provided for.*—Any person who contravenes any provision of this Act or of any rule or order made thereunder, or obstructs the lawful exercise of any power conferred by or under this Act, or makes default in complying with any requirement of this Act or of any rule or order made thereunder, shall, if no express provision is made by this Act for punishment of such contravention, obstruction or default, be punishable with imprisonment for a term which may extend to six months, or with fine or with both.

35. *Penalty for offences committed by companies.*—If the person charged with an offence under this Act is a company or other body corporate, the director, manager, secretary or other officer of the company or other body corporate directly concerned in the management thereof shall, unless he proves that the offence took place without his knowledge or that he exercised due diligence to prevent such contravention, be deemed to be guilty of such contravention.

36. *Penalty for abetment.*—Any person who abets any of the offences punishable under this Act shall be punishable with the punishment provided for the offence.

37. *Offences to be cognizable.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), all offences under this Act shall be cognizable.

38. *Procedure for prosecution.*—No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the State Government or of any officer authorised in this behalf, by general or special order, by the State Government.

39. *Offences may be tried summarily.*—Any Magistrate empowered to try in a summary way the offences specified in sub-section (*1*) of section 260 of the Code of Criminal Procedure, 1898 (Act V of 1898), may, if an application is made in this behalf by the complainant and the Magistrate thinks fit, try any offence under this Act in accordance with the provisions contained in sections 262 to 265 of that Code, but nothing contained in sub-section (2) of section 262 of that Code shall apply to any such trial.

## CHAPTER VII

### MISCELLANEOUS

40. *Restriction on transfer by evacuees.*—(1) No transfer of any right or interest in any property made in any manner whatsoever after the 14th day of August, 1947, by or on behalf of any person whose property is notified or declared to be evacuee property, shall be effective so as to confer any rights or remedies on the parties to such transfer or on any person claiming under them unless it is confirmed by the Custodian.

(2) An application for confirmation of such transfer may be made by the transferor or the transferee or any person claiming under, or lawfully authorised by, either of them to the Custodian within two months from the date of transfer or within two months from the commencement of this Act or within two months from the date of the notification or declaration referred to in sub-section (1), whichever is later.

(3) The provisions of section 5 of the Indian Limitation Act, 1908 (IX of 1908) shall apply to an application under sub-section (2).

(4) The Custodian shall hold an inquiry into the application in the prescribed manner and may reject the application, if he is of opinion that—

(*a*) the transaction has not been entered into in good faith or for valuable consideration, or

(*b*) the transaction is prohibited under any law for the time being in force, or

(*c*) the transaction ought not to be confirmed for any other reason.

(5) If the application is not rejected under sub-section (4) the Custodian may confirm the transfer either unconditionally or subject to such terms and conditions as he thinks fit to impose.

41. *Prohibition of registration of documents in certain cases.*—(1) Where any document required to be registered under the Indian Registration Act, 1908 (XVI of 1908), purports to transfer any right or interest in any property in contravention of the provisions contained in section 20 or section 40, on registering officer shall register any such document and no revenue officer shall sanction any mutation of names in respect thereof, unless the party presenting the document for registration produces a certificate from the Custodian declaring that the property is not property belonging to an intending evacuee or that it is not evacuee property or that the transaction has been confirmed or that the Custodian has given his previous approval to the transfer.

(2) Save as otherwise expressly provided herein, nothing contained in sub-section (1) shall be deemed to affect the provisions contained in the Payment of Taxes (Transfer of Property) Act, 1949 (XXII of 1949), or in any other law for the time being in force relating to the registration of documents.

42. *Submission of information to Custodian in respect of evacuee property.*—As soon as may be but not later than sixty days from the commencement of this Act, every person who is occupying, supervising or managing any property without the approval of the Custodian which he knows or has reason to believe to be evacuee property, shall submit to the Custodian or to any person authorized by him in this behalf full information relating to such property, including the date from which or the period during which he has been occupying, supervising or managing it, and a detailed account of the rents, profits, income or other benefits received from the said property from the date from which or for the period during which he has been occupying, supervising or managing it.

43. *Vesting of property in Custodian not affected by death of evacuee, etc.*—Where in pursuance of the provisions of this Act any property has vested in the Custodian, neither the death of the evacuee at any time thereafter nor the fact that the evacuee who had a right or interest in that property had ceased to be an evacuee at any material time shall affect the vesting or render invalid anything done in consequence thereof.

44. *Certain officers to be public servants.*—The Custodian-General, the Custodian and every other person duly appointed to discharge any duties imposed on them by this Act or the rules or orders made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

45. *Powers of the Custodian while holding inquiry.*—For the purposes of holding any inquiry under this Act, the Custodian shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit, in respect of the following matters, namely :—

(*a*) enforcing the attendance of any person and examining him on oath ;

(*b*) compelling the discovery and production of documents ;

(*c*) any prescribed matter ;

and the inquiry by the Custodian shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860), and the Custodian shall be deemed to be a Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

46. *Jurisdiction of civil courts barred in certain matters.*—Save as otherwise expressly provided in this Act, no civil or revenue court shall have jurisdiction—

(*a*) to entertain or adjudicate upon any question whether any property or any right to or interest in any property is or is not evacuee property; or

(*b*) to entertain or adjudicate upon any question whether any person is or is not an intending evacuee; or

(*c*) to question the legality of any action taken by the Custodian-General or the Custodian under this Act; or

(*d*) in respect of any matter which the Custodian-General or the Custodian is empowered by or under this Act to determine.

47. *Protection of action taken in good faith.*—(*1*) No suit, prosecution or other legal proceeding shall lie against the Custodian-General or the Custodian or any person acting under the direction of the Custodian in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

(*2*) No suit or other legal proceeding shall lie against the Central Government, the State Government, the Custodian-General or the Custodian or any other person in respect of any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

48. *Recovery of arrears.*—Any sum due to the State Government or to the Custodian under the provisions of this Act may be recovered as if it were an arrear of land revenue.

49. *Record to be public documents.*—All records prepared or registers maintained under this Act shall be deemed to be public documents within the meaning of the Indian Evidence Act, 1872 (I of 1872), and shall be presumed to be genuine until the contrary is proved.

50. *Notice of suits to the Custodian.*—(*1*) If in any suit it appears to the civil or revenue court that a question relating to the property of an evacuee or an intending evacuee is involved, the court shall not proceed to determine that question until after notice has been given to the Custodian.

(2) A court may, at any stage of a suit or proceeding, either on its own motion or on application made in this behalf by the Custodian, make an order that the Custodian shall be added as a party to the suit or proceeding, if the court is satisfied that such addition is necessary or proper for the satisfactory determination of the suit or proceeding.

51. *Fees payable to the Custodian.*—(*1*) The State Government may fix the fees payable to the Custodian for the management or disposal of any property vested in him.

(*2*) Such fees shall be payable out of the income or sale proceeds of such property and shall be a first charge on the property.

52. *Power to exempt.*—The Central Government may, by notification in the Official Gazette, exempt any person or class of persons or any property or class of property from the operation of all or any of the provisions of this Act.

53. *Power to give directions.*—The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions contained in this Act or of any rules or orders made thereunder.

54. *Power of Central Government to take action with regard to evacuee property.*—The Central Government may, for the purpose of regulating the administration of any property which has vested in the Custodian under the provisions of this Act, pass such order or direct such action to be taken in relation thereto as, in its opinion, the circumstances of the case require and as is not inconsistent with any of the provisions contained in this Act.

55. *Delegation of powers.*—(*1*) The Central Government may direct that any power exercisable by it under this Act shall be exercisable also by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government as may be specified in the direction.

(2) The State Government may, by general or special order, direct that any power exercisable by it under this Act, shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised by an officer subordinate to the State Government.

(3) Subject to the provisions of this Act and of the rules and orders made thereunder, the Custodian-General may delegate all or any of his powers under this Act to any Deputy or Assistant Custodian-General.

(4) Subject to the provisions of this Act and of the rules and orders made thereunder, the Custodian may delegate all or any of his powers under this Act to any Additional, Deputy or Assistant Custodian, subject to such conditions, if any, as may be specified by the Custodian.

56. *Power to make rules.*—(*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the terms and conditions of service of the Custodian-General ;

(*b*) the manner in which inquiries under this Act may be held ;

(*c*) the manner in which evacuee properties which have vested in the Custodian may be notified ;

(*d*) the manner in which possession of any evacuee property may be taken by the Custodian ;

(*e*) the manner in which any person claiming any right to, or interest in, any property which has been notified as evacuee property may have his claim registered and disposed of ;

(*f*) the manner in which any attachment may be made by the Custodian ;

(*g*) the manner in which trust properties which have vested in the Custodian may be administered or otherwise dealt with ;

(*h*) the circumstances in which, and the conditions subject to which, the Custodian may sell any immoveable property vested in him, and the procedure governing the grant of leases and the period for which leases may be granted ;

(*i*) the circumstances in which leases and allotments may be cancelled or terminated or the terms of any lease or agreement varied ;

(*j*) the securities in which the Custodian may invest any moneys held by him ;

(*k*) the manner in which any moneys due to the Custodian may be recovered :

(*l*) the form and manner in which books of accounts and other records shall be maintained by the Custodian ;

(*m*) the form in which any notice under this Act may be issued, the manner of its service and publication and the form in which any demand may be made by the Custodian ;

(*n*) the nature of cases and the circumstances in which and the conditions subject to which certificates for restoration of property under section 16 may be issued ;

(*o*) the nature of cases and the circumstances in which the Custodian may refer an applicant under section 16 to a civil court ;

(*p*) the powers vested in a civil court which may be exercised by the Custodian while holding any inquiry under this Act ;

(*q*) the nature of cases and the circumstances in which the Custodian may confirm or refuse to confirm a transfer under section 38 ;

(*r*) the form and manner in which and the time within which appeals and applications for revision may be preferred under Chapter V and the fees payable in respect thereof ;

(*s*) any other matter which has to be or may be prescribed under this Act.

(*3*) The State Government may, by notification in the Official Gazette, make rules providing for all or any of the following matters, namely :—

(*a*) the terms and conditions of service of the Custodian and other officers appointed under this Act and for the furnishing of security by them ;

(*b*) the work to be performed by the Custodian and the Additional, Deputy and Assistant Custodians ;

(*c*) the delegation of powers of the Custodian to the Additional, Deputy or Assistant Custodian ;

(*d*) the fees payable to the Custodian for the management and disposal of any property vested in him and the manner in which such fees shall be paid ;

(*e*) the persons by whom and the times at which books of account maintained under this Act may be inspected and audited.

57. *Temporary amendment of section 54 of the Indian Income-tax Act, 1922.*—During the continuance of this Act, sub-section (3) of section 54 of the Indian Income-tax Act, 1922 (XI of 1922), shall have effect as if after clause (*o*) thereof, the following clause had been inserted, namely :—

"(*p*) of any such particulars to the Custodian of Evacuee Property appointed under the Administration of Evacuee Property Act, 1950, for the purpose of enabling him to discharge the duties imposed upon him by or under the said Act ".

58. *Repeal and Saving.*—(*1*) The Administration of Evacuee Property Ordinance, 1949 (XXVII of 1949), is hereby repealed.

(*2*) The repeal by this Act of the Administration of Evacuee Property Ordinance, 1949 (XXVII of 1949), shall not affect the previous operation thereof, and subject thereto, anything done or any action taken in the exercise of any power conferred by or under that Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

## NOTIFICATION.

No. L.D. 326—Legis. 2-50-7, Bangalore, dated 26th April 1950.

Ordered that the accompanying Indian Patents and Designs (Amendment) Act, 1950 (XXXII of 1950) published in the *Gazette of India*, dated the 20th April 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Legal Remembrancer and Secretary to Government, Law Department.*

Received the Assent on 18th April 1950.

## ACT No. XXXII OF 1950.

# THE INDIAN PATENTS AND DESIGNS (AMENDMENT) ACT, 1950.

AN

ACT

*further to amend the Indian Patents and Designs Act*, 1911.

BE it enacted by Parliament as follows:—

1. *Short title.*—This Act may be called the Indian Patents and Designs (Amendment) Act, 1950.

2. *Amendment of Act II of 1911.*—In the Indian Patents and Designs Act, 1911 (hereinafter referred to as the said Act), for the words "the States", wherever they occur, the word "India" shall be substituted.

3. *Amendment of section 1, Act II of 1911.*—In section 1 of the said Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) It extends to the whole of India except the State of Jammu and Kashmir".

4. *Amendment of Section 2, Act II of 1911.*—In section 2 of the said Act,—

(a) for clause (7) the following clause shall be substituted, namely:—

"(7) 'High Court' means, with reference to any area,—

(a) in relation to a Part A State or a Part B State, the High Court for that State;

(*b*) in relation to Ajmer, the High Court at Allahabad ;

(*c*) in relation to Bhopal and Vindhya Pradesh, the High Court at Nagpur ;

(*d*) in relation to Bilaspur, Delhi and Himachal Pradesh, the High Court of Punjab ;

(*e*) in relation to Coorg, the High Court at Madras ;

(*f*) in relation to Kutch, the High Court at Bombay ;

(*g*) in relation to Manipur and Tripura, the High Court of Assam ;

(*h*) in relation to the Andaman and Nicobar Islands, the High Court at Calcutta ;"

(*b*) after clause (7) the following clause shall be inserted, namely :—

"(*7-A*) 'India' does not include the State of Jammu and Kashmir ;" and

(*c*) clause (15) shall be omitted.

5. *Insertion of new section 2-A in Act II of 1911.*—After section 2 of the said Act, the following section shall be inserted, namely :—

"2-A. *Rule of construction in application of Act to Part B States.*—In the application of this Act to any Part B State, unless the context otherwise requires,—

(*a*) references to any enactment in force in Part A States but not in force in that Part B State shall be construed as references to the corresponding law, if any, in force in that State ;

(*b*) references to a court or authority in existence in Part A States but not in existence in that Part B State shall be construed as references to the corresponding court or authority, if any, in that State ".

6. *Substitution of new sections for sections 22, 23 and 23-A in Act I of 1911.*—For sections 22, 23 and 23-A of the said Act, the following sections shall be substituted, namely :—

"22. *Application for licence.*—(*1*) At any time after the expiration of three years from the date of the sealing of a patent any person interested may apply to the Controller upon any one or more of the grounds specified in sub-section (*2*) for a licence under the patent.

(*2*) The grounds upon which an application under sub-section (*1*) may be made are as follows, that is to say,—

(*a*) that the patented invention, being capable of being commercially worked in India, has not been commercially worked therein or is not being so worked to the fullest extent that is reasonably practicable ;

(*b*) that a demand for the patented article in India is not being met to an adequate extent or on reasonable terms, or is being met to a substantial extent by importation of the patented article from other countries ;

(*c*) that the commercial working of the invention in India is being prevented or hindered by the importation of the patented article from other countries ;

(*d*) that by reason of the refusal of the patentee to grant a licence or licences on reasonable terms—

(*i*) a market for the export of the patented article manufactured in India is not being supplied, or

(*ii*) the working or efficient working in India of any other patented invention which makes a substantial contribution to the establishment or development of commercial or industrial activities in India is unfairly prejudiced ;

(*e*) that by reason of conditions imposed by the patentee upon the grant of licences under the patent, or upon the purchase, hire or use of the patented article or process, the manufacture, use or sale of materials not protected by the patent or the establishment or development of commercial or industrial activities in India is unfairly prejudiced.

(*3*) An application under this section may be made by any person notwithstanding that he is already the holder of a licence under the patent; and no person shall be estopped from alleging any of the matters specified in sub-section (*2*) by reason of any admission made by him, whether in such a licence or otherwise, or by reason of his having accepted such a licence.

(*4*) In this section the expression 'patented article' includes any article made by a patented process.

23. *Relief in respect of an application under section 22.*—(*1*) Where an application is made under section 22 the Controller may make an order granting any of the following reliefs, that is to say, the Controller may—

(*a*) grant a licence to the applicant upon such terms as the Controller thinks fit; and may also where the circumstances so require direct that all other existing licences in respect of the patent shall be revoked, or that the patentee shall forfeit any right which he may have as a patentee, to make, use, exercise or vend the invention or to grant licences under the patent ;

(*b*) revoke any existing licence held by the applicant and grant a new licence upon such terms as the Controller thinks fit, or amend any licence held by the applicant in such manner as the Controller may think fit ;

(*c*) grant a licence under the patent to such customers of the applicant and on such terms as the Controllor thinks fit, if the Controller is satisfied that the manufacture, use or sale of materials not protected by the patent is unfairly prejudiced by reason of conditions imposed by the patentee upon the grant of licences under the patent or upon the purchase, hire or use of the patented article or process :

Provided that where the application is made on the ground that the patented invention is not being commercially worked in India or is not being worked to the fullest extent that is reasonably practicable and it appears to the Controller that the time which has elapsed since the granting of the patent has for any reason been insufficient to enable it to be so worked, he may, by order, adjourn the application for such period as will, in his opinion, give sufficient time for the invention to be so worked.

(*2*) Except in cases where the terms of a licence have been settled by mutual agreement and such terms otherwise provide, any person to whom a licence has been granted under sub-section (*1*) shall be entitled to call upon the patentee to take proceedings to prevent any infringement of the patent and if the patentee refuses or neglects to do so within two months after being so called upon, the licensee may institute proceedings for the infringement in his own name as though he were the patentee, making the patentee a defendant and a patentee so added as defendant shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.

23A. *Endorsement of patent on application by Government.*—(*1*) At any time after the expiration of three years from the date of the sealing of a patent, the Central Government may apply to the Controller upon any one or more of the grounds specified in sub-section (*2*) of section 22 for the endorsement of the patent with the words 'Licences of Right'.

(*2*) An application under this section may also be made on the ground that by the refusal of the patentee to grant a licence or licences on reasonable terms the establishment or development of commercial or industrial activities in India is unfairly prejudiced or the development of an industry, the control of which by the Union is declared by Parliament by law to be expedient in the public interest, is being prevented or hindered.

(*3*) Where a patent of addition is in force, any application under sub-section (*1*) either for the endorsement of the original patent or the patent of addition shall be deemed to be an application for the endorsement of both the patents and where any such application is granted or refused it shall be deemed to have been granted or refused in respect of both the patents.

(*4*) All endorsements of patents made under this section shall be entered in the Register of Patents maintained under section 20.

(5) For the removal of doubts it is hereby declared that nothing in this section shall affect the right of the Central Government or any State Government to make an application for the grant of a licence in respect of any industrial undertaking or trading activity owned or carried on by such Government.

23B. *Provision as to patents endorsed 'Licences of Right'.*—(*1*) Where the Controller has made an endorsement upon a patent 'Licences of Right'—

(*a*) any person shall at any time after such endorsement be entitled as of right to a licence under the patent upon such terms as in default of agreement may be settled by the Controller on the application either of the patentee or of the person applying for a licence;

(*b*) the Controller may, on the application of a person holding a licence granted under the patent before the endorsement, order the licence to be revoked and grant a new licence by virtue of the endorsement upon terms to be settled in the aforesaid manner;

(*c*) if in proceedings for the infringement of the patent (otherwise than by the importation of the patented article from other countries) the infringing defendant is ready and willing to take a licence upon terms to be settled by the Controller, no injunction against him shall be awarded, and the amount recoverable against him by way of damages, if any, shall not exceed double the amount which would have been recoverable against him as licence if the licence had been dated prior to the earliest infringement;

(*d*) the renewal fees payable in respect of a patent so endorsed shall, as from the date of the endorsement, be one moiety only of the fees which would otherwise have been payable.

(*2*) The provisions of sub-section (*2*) of section 23 shall apply to any licence granted under sub-section (*1*) as they apply to a licence granted under the said section 23.

23C. *Exercise of powers on application under section 22 or section 23A.*—(*1*) The powers of the Controller upon an application under section 22 or section 23A shall be exercised with a view to securing the following general purposes, that is to say,—

(*a*) that inventions which can be worked on a commercial scale in India and which should in the public interest be so worked shall be worked therein without undue delay and to the fullest extent that is reasonably practicable;

(*b*) that the inventor or other person beneficially entitled to a patent shall receive reasonable remuneration having regard to the nature of the invention;

(*c*) that the interests of any person for the time being working or developing an invention in India under the protection of a patent is not unfairly prejudiced.

(*2*) Subject to the provisions of sub-section (*1*), the Controller shall, in determining whether to make an order in pursuance of any such application or not, take account of the following matters, that is to say,—

(*a*) the nature of the invention, the time which has elapsed since the sealing of the patent and the measures already taken by the patentee or any licensee to make full use of the invention;

(*b*) the ability of any person to whom a licence is to be granted under the order to work the invention to the public advantage; and

(*c*) the risks to be undertaken by that person in providing capital and working the invention if the application is granted;

but shall not take account of matters subsequent to the making of the application.

23D. *Procedure on application under section 22 or section 23A.*—(*1*) Every application under section 22 or section 23A shall specify the nature of the order sought by the applicant and shall contain a statement setting out the nature of the applicant's interest, if any, and the facts upon which the application is based.

(*2*) Where the Controller is satisfied, upon consideration of any such application, that a *prima facie* case has been made out for the making of an order, he shall direct the applicant to serve copies of the application upon the patentee and any other persons appearing from the Register of Patents to be interested in the patent in respect of which the application is made.

(*3*) The patentee or any other person desiring to oppose the application may, within such time as may be prescribed or within such further time as the Controller may on application made either before or after the expiration of the prescribed time allow, give to the Controller notice of opposition.

(*4*) Any such notice of opposition shall contain a statement setting out the grounds on which the application is opposed.

(*5*) Where any such notice of opposition is duly given the Controller shall notify the applicant, and shall give to the applicant and the opponent an opportunity to be heard before deciding the case.

23E. *Supplementary provisions with respect to orders under section 23 or section 23B.*—(*1*) Any order made by the Controller under section 23 or section 23B for the grant of a licence shall, without prejudice to any other mode of enforcement have effect as if it were a deed, executed by the patentee and all other necessary parties, granting a licence in accordance with the order.

(*2*) Notwithstanding anything contained in this Act no order shall be made in pursuance of an application under section 23 or section 23A or section 23B which would be at variance with any treaty, convention, arrangement or engagement applying to India and any other country.

23F. *Appeals.*—(*1*) An appeal shall lie to the High Court at Calcutta from any order of the Controller made under section 23 or section 23A or under clause (*a*) or clause (*b*) of sub-section (*1*) of section 23B.

(*2*) Every such appeal shall be made within three months of the date of the order passed by the Controller and shall be in writing and accompanied by the prescribed fee.

(*3*) In calculating the said period of three months, the time, if any, occupied in granting a copy of the order appealed against shall be excluded.

23G. *Procedure for hearing of appeals.*—(*1*) When an appeal has been preferred to the High Court at Calcutta under section 23F, it shall be heard by a Bench of not less than two Judges.

(*2*) The Bench hearing the appeal may, if it thinks fit, and shall, on the request of the parties to the appeal, call in the aid of an assessor specially qualified for the purpose, and hear the appeal wholly or partially with his assistance.

(*3*) The remuneration, if any, to be paid to an assessor under this section shall in every case be determined by the High Court and be paid by it as part of the expenses of the execution of this Act."

7. *Amendment of section 75, Act II of 1911.*—In section 75 of the said Act, after clause (*7*) the following clause shall be inserted, namely :—

"(*8*) applications for endorsement of patent with the words 'Licences of Right'."

8. *Amendment of section 78A, Act II of 1911.*—In sub-section (*4*) of section 78A of the said Act, the words " or the law of any Part B State " and the words " or in that State, as the case may be " shall be omitted.

## NOTIFICATION

No. L.D. 327--Legis. 2-50-3, Bangalore, dated 26th April 1950.

Ordered that the accompanying Opium and Revenue Laws (Extension of Application) Act, 1950 (XXX III of 1950), published in the *Gazette of India*, dated the 20th April 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Legal Remembrancer and Secretary to Government, Law Department.*

Received Assent on 18th April 1950.

## ACT No. XXXIII OF 1950.

# THE OPIUM AND REVENUE LAWS (EXTENSION OF APPLICATION) ACT, 1950.

AN
ACT

*to provide for the extension of certain Opium and Revenue Laws to certain parts of India.*

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Opium and Revenue Laws (Extension of Application) Act, 1950.

2. *Extension of certain opium and revenue laws to certain parts of India.*—(1) The following Acts, namely.—

(i) the Opium Act, 1857 (XIII of 1857),

(ii) the Opium Act, 1878 (I of 1878),

(iii) the Revenue Recovery Act, 1890 (I of 1890),

(iv) the Government Trading Taxation Act, 1926 (II of 1926),

(v) the Dangerous Drugs Act, 1930 (II of 1930),

(vi) the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947), and

(vii) the Payment of Taxes (Transfer of Property) Act, 1949 (XXII of 1949).

and all rules and orders made thereunder, which are in force immediately before the commencement of this Act in certain parts of India, are hereby extended to, and shall be in force in the rest of India except the State of Jammu and Kashmir.

(2) The amendments specified in the Schedule shall be made in the aforesaid Acts.

3. *Modifications of State laws relating to income-tax investigation.*—If immediately before the commencement of this Act there is in force in any Part B State other than Jammu and Kashmir any law (hereinafter in this section referred to as "the State law") corresponding to the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947), that law shall continue to remain in force with the ollowing modifications, namely :—

(*a*) all cases referred to or pending before the State Commission (by whatever name called) in respect of matters relating to taxation on income other than agricultural income shall stand transferred to the Central Commission for disposal:

Provided that the Central Commission shall not, by reason merely of the transfer of any case under the provisions of this section, be bound to recall or rehear any witness who has given evidence in the case, and may act on the evidence already recorded by or produced before the Commission which was originally investigating into the case;

(*b*) subject to the other provisions contained in this section, the State law shall, so far as may be, apply to determine the procedure that may be followed, and the powers that may be exercised, by the Central Commission in the disposal of the cases transferred to it under clause (*a*);

(*c*) any reference in the State law, by whatever form of words, to the State Government or the State Commission shall, in relation to income other than agricultural income, be construed as a reference to the Central Government or the Central Commission, as the case may be;

(*d*) the report of the Central Commission shall be submitted to the Central Government, and the Central Government may, by order in writing, direct that such proceedings as it thinks fit under the law in force in the State relating to income-tax, super-tax or excess profits tax or any other law, shall be taken against the person to whose case the report relates in respect of his income other than agricultural income, and upon such a direction being given, all such proceedings may be taken and completed under the appropriate law applicable in the State, as if the direction had been given and the proceedings had been instituted thereunder;

(*e*) where under any law in force in the State the agricultural income of an assessee is to be included in his total income for the purpose of determining the tax payable by him, the tax payable in respect of his income other than agricultural income shall be an amount bearing to the total amount of tax which would have been payable under the appropriate law in force in the State if a combined assessment had been made, the same proportion as such income bears to the total income including the agricultural income:

Provided that for this purpose any reduction of tax allowed on the agricultural income by the appropriate law in force in the State shall not be taken into account.

*Explanation.*—In this section, "Central Commission" means the Income-tax Investigation Commission constituted under the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947).

4. *Repeals and savings.*—If immediately before the commencement of this Act there is in force in any Part B State, other than Jammu and Kashmir, or in the merged territory of Cooch Behar any law corresponding to any of the Acts specified

in section 2, other than the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947), that law shall, upon the commencement of this Act, stand repealed :

Provided that such repeal shall not affect—

(a) the previous operation of that law, or

(b) any penalty, forfeiture or punishment incurred in respect of any offence committed against that law, or

(c) any investigation, legal proceeding or remedy in respect of any such penalty, forfeiture or punishment ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed :

Provided further that anything done or any action taken under any provision of that law shall be deemed to have been done or taken under the corresponding provision of the Central Act as now extended to the State and shall continue in force accordingly.

5. *Removal of difficulties.*—If any difficulty arises in giving effect to the provisions of any of the Acts, rules or orders now extended to any part of India in which they were not in force before the commencement of this Act the Central Government may, by order published in the Official Gazette, make such provision or give such direction as appears to it to be necessary for removing the difficulty.

# THE SCHEDULE

[*See* Section 2 (*2*)]

*Enactments amended*

| Year 1 | No. 2 | Short title 3 | Amendments 4 |
|---|---|---|---|
| 1857 | XIII | The Opium Act, 1857 ... | (1) In the preamble, omit the words "in the Presidency of Fort William in Bengal".<br>(2) Insert the following as section 1, namely :—<br>"1. *Short title and extent.*—(*1*) This Act may be called the Opium Act, 1857.<br>(*2*) It extends to the whole of India except the State of Jammu and Kashmir". |
| 1878 | I | The Opium Act, 1878 ... | (1) In section 1, for the words beginning with "It shall extend to" and ending with the words "directs in this behalf", substitute the following, namely :—<br>"It extends to the whole of India except the State of Jammu and Kashmir".<br>(2) In section 3, for the definitions of "import", "export", "transport", "sale" and "sell", substitute the following, namely :—<br>"customs frontiers" means any of the customs frontiers of India as defined by the Central Government under section 3A of the Sea Customs Act, 1878 (VIII of 1878) ;<br>"import" and "export" mean respectively to bring into, or take out of, a State otherwise than across any customs frontiers ;<br>"transport" means to remove from one place to another within the same State ;<br>"sale" does not include sale for export across customs frontiers, and "sell" shall be construed accordingly ; |
| 1890 | I | The Revenue Recovery Act, 1890. | (1) In sub-section (*2*) of section 1, for the words and letter "Part B States" substitute the words "the State of Jammu and Kashmir".<br>(2) In sub-section (*4*) of section 4, for the words and letters "a Part A State or a Part C State" substitute the words "any State to which this Act extends". |
| 1926 | III | The Government Trading Taxation Act, 1926. | (1) In the preamble, omit the words "or the Government of any Acceding State or other Indian State".<br>(2) In Section 2,—<br>(*a*) in sub-section (*1*), for the words, "in Part A States and Part C States" substitute the word "India";<br>(*b*) omit sub-section (*1A*);<br>(*c*) in sub-section (*3*), add the following words at the end, namely :—<br>'and "India" means the territory of India excluding the State of Jammu and Kashmir'.<br>(3) In section 3, for the words "upon an Acceding State or other Indian State" substitute the words and letter "upon a Part B State". |
| 1930 | II | The Dangerous Drugs Act, 1930. | (1) In sub-section (*2*) of section 1, for the words and letter "Part B States" substitute the words "the State of Jammu and Kashmir".<br>(2) In sub-section (*1*) of section 39, for the words and letters "or an Act of the Legislature of a Part A State or Part C State" substitute the words "or an Act of any State Legislature". |
| 1947 | XXX | The Taxation on Income (Investigation Commission) Act, 1947. | In sub-section (*2*) of section 1, for the words and letter "Part B State" substitute the words "the State of Jammu and Kashmir". |
| 1949 | XXII | The Payment of Taxes (Transfer of Property) Act, 1949. | (1) In sub-section (*2*) of section 1, for the words and letter "Part B States" substitute the words "the State of Jammu and Kashmir".<br>(2) In the *Explanation* to section 2, for the words and letter "Part B States" substitute the words "the State of Jammu and Kashmir" |

## NOTIFICATION.

No. L.D. 328—Legis. 2-50-9, dated Bangalore, 26th April 1950.

Ordered that the accompanying Foreign Exchange Regulation (Amendment) Act, 1950 (XXXIV of 1950), published in the *Gazette of India*, dated the 20th April 1950, be republished in the *Mysore Gazette* for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Legal Remembrancer and Secretary to Government, Law Department.*

Received Assent on 18th April 1950.

## Act No. XXXIV of 1950.

# THE FOREIGN EXCHANGE REGULATION AMENDMENT ACT, 1950.

AN

ACT

*further to amend the Foreign Exchange Regulation Act*, 1947.

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Foreign Exchange Regulation (Amendment) Act, 1950.

2. *Amendment of section 1, Act VII of* 1947.—In sub-section (2) of section 1 of the Foreign Exchange Regulation Act, 1947 (hereinafter referred to as the said Act,) for the words and letter " Part B States ", the words " the State of Jammu and Kashmir " shall be substituted.

3. *Amendment of section 2, Act VII of* 1947.—In section 2 of the said Act,—

(*i*) in clause (*k*), for the words and figures " Indian Securities Act, 1920 " the words and figures " Public Debt Act, 1944 " shall be substituted ;

(*ii*) for clause (*ll*), the following clause shall be substituted, namely :—

'(*m*) " the States " means the territories comprised within the States to which this Act extends ;

(*iii*) the existing clause (*m*) shall be relettered as clause (*n*) ; and

(*iv*) after clause (*n*), as so relettered, the following clause shall be added, namely :—

" (*o*) any reference to an enactment which does not extend to a Part B State shall be construed as a reference to the corresponding enactment, if any, for the time being in force in that State ".

4. *Amendment of section* 18, *Act VII of* 1947.—In section 18 of the said Act,—

(*i*) in sub-section (1), the words "or the United Kingdom" shall be omitted ; and

(*ii*) in sub-section (2), the words "United Kingdom or" shall be omitted.

5. *Amendment of section* 23, *Act VII of* 1947.—In section 23 of the said Act,—

(*i*) after sub-section (*1*), the following sub-section shall be inserted, namely,— :

"(*2*) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (Act V of 1898), it shall be lawful for any magistrate of the first class, specially empowered in this behalf by the State Government, and for any presidency magistrate to pass a sentence of fine exceeding one thousand rupees on any person convicted of an offence punishable under this section." ; and

(*ii*) the existing sub-sections (*2*) and (*3*) shall be renumbered as sub-sections (*3*) and (*4*), respectively.

6, *Repeals and Savings.*—(*1*) If immediately, before the commencement of this Act, there is in force, in any Part B State to which this Act extends, a law corresponding to the Foreign Exchange Regulation Act, 1947 (VII of 1947), such law shall, upon the commencement of this Act, stand repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the repealed law shall be deemed to have been done or taken in the exercise of the powers conferred by or under the Foreign Exchange Regulation Act, 1947, as amended by this Act, as if that Act as so amended were in force on the date on which such thing was done or action was taken.

## NOTIFICATION.

No. L D. 329—Legis. 2-50-10, dated, Bangalore the 26th April 1950.

Ordered that the accompanying Repealing and Amending Act, 1950 (XXXV of 1950) published in the *Gazette of India*, dated the 21st April 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Legal Remembrancer and*
*Secretary to Government,*
*Law Department.*

Received Assent on 19th April 1950.

## ACT No. XXXV OF 1950.

# THE REPEALING AND AMENDING ACT, 1950.

[AS PASSED BY PARLIAMENT.]

AN

## ACT

*to repeal certain enactments and to amend certain other enactments.*

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Repealing and Amending Act, 1950.

2. *Repeal of certain enactments.*—The enactments specified in the First Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

3. *Amendment of certain enactments.*—The enactments specified in the Second Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

4. *Savings.*—The repeal by this Act of any enactment shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to ;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, or recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

## THE FIRST SCHEDULE

*Repeals*

(*See* section 2)

| Year<br>1 | No.<br>2 | Short Title<br>3 | Extent of repeal<br>4 |
|---|---|---|---|
| | | *Acts of the Central Legislature.* | |
| 1946 | I | The Workmen's Compensation (Amendment) Act, 1946 ... | The whole |
| 1946 | II | The Indian Mines (Amendment) Act, 1946 ... ... | Do |
| 1946 | III | The Code of Criminal Procedure (Amendment) Act, 1946 ... | Do |
| 1946 | IV | The Code of Criminal Procedure (Second Amendment) Act, 1946 | Do |
| 1946 | V | The Professions Tax Limitation (Amendment) Act, 1946 ... | Do |
| 1946 | VI | The Insurance (Amendment) Act, 1946 ... ... | Do |
| 1946 | VIII | The Indian Income-tax (Amendment) Act, 1946 ... ... | Do |
| 1946 | XI | The Provident Funds (Amendment) Act, 1946 ... ... | Do |
| 1946 | XII | The Trade Marks (Amendment) Act, 1946 ... ... | Do |
| 1946 | XIII | The Indian Companies (Amendment) Act, 1946 ... ... | Do |
| 1946 | XV | The Indian Coconut Committee (Amendment) Act, 1946 ... | Do |
| 1946 | XVI | The Protective Duties Continuation Act, 1946 ... ... | Do |
| 1946 | XVIII | The Indian Soldiers (Litigation) Amendment Act, 1946 ... | Do |
| 1946 | XXV | The Delhi Special Police Establishment Act, 1946 ... | Section 7 |
| 1946 | XXVI | The Special Tribunal (Supplementary Provisions) Act, 1946 ... | Section 4 |
| 1946 | XXIX | The Indian Tea Control (Amendment) Act, 1946 ... | The whole |
| 1946 | XXX | The Registration of Transferred Companies (Amendment) Act, 1946. | Do |
| 1946 | XXXI | The Foreigners Act, 1946 ... ... | Section 17 |
| 1947 | I | The Criminal Tribes (Amendment) Act, 1947 ... ... | The whole |
| 1947 | III | The Indian Extradition (Amendment) Act, 1947 ... | Do |
| 1947 | IV | The Coffee Market Expansion (Amendment) Act, 1947 ... | Do |
| 1947 | VI | The Indian Railways (Amendment) Act, 1947 ... ... | Do |
| 1947 | VIII | The Indian Navy (Discipline) (Amendment) Act, 1947 ... | Do |
| 1947 | XIII | The Delhi Muslim Wakfs (Amendment) Act, 1947 ... | Do |
| 1947 | XIV | The Industrial Disputes Act, 1947 ... ... | Section 40 |
| 1947 | XXII | The Income-tax and Excess Profits Tax (Amendment) Act, 1947 | The whole |
| 1947 | XXV | The Indian Tariff (Amendment) Act, 1947 ... ... | Do |
| 1947 | XXVII | The Motor Vehicles (Amendment) Act, 1947 ... ... | Do |
| 1947 | XXVIII | The Indian Coinage (Amendment) Act, 1947 ... ... | Do |
| 1947 | XXXIII | The Negotiable Instruments (Amendment) Act, 1947 ... | Do |
| 1947 | XXXIV | The Indian Boilers (Amendment) Act, 1947 ... ... | Do |
| 1947 | XXXV | The Panth Piploda Laws (Amendment) Act, 1947 ... | Do |
| 1947 | XXXVI | The Indian Medical Council (Amendment) Act, 1947 ... | Do |
| 1947 | XXXVIII | The Foreigners (Amendment) Act, 1947 ... ... | Do |
| 1947 | XL | The Foreign Exchange Regulation (Amendment) Act, 1947 ... | Do |
| 1947 | XLI | The Indian Merchant Shipping (Amendment) Act, 1947 ... | Do |
| 1947 | XLII | The Indian Finance (Supplementary) Act, 1947 ... ... | Do |
| 1947 | L | The Delhi and Ajmer-Merwara Rent Control (Amendment) Act, 1947. | Do |
| 1947 | LI | The Indian Cotton Cess (Amendment) Act, 1947 ... | Do |
| 1948 | II | The Repealing and Amending Act, 1947 ... ... | Do |
| 1948 | IV | The Armed Forces (Emergency Duties) Amendment Act, 1947 ... | Do |
| 1948 | V | The Indian Tariff (Second Amendment) Act, 1947 ... | Do |

Acts of the Central Legislature—*concld.*

| Year 1 | No. 2 | Short title 3 | Extent of repeal 4 |
|---|---|---|---|
| 1948 | VI | The Code of Civil Procedure (Amendment) Act, 1948 ... | The whole |
| 1948 | X | The Insurance (Amendment) Act, 1948 ... ... | Do |
| 1948 | XIII | The Railways (Transport of Goods) (Amendment) Act, 1948 ... | Do |
| 1948 | XVII | The Indian Army and the Indian Air Force (Amendment) Act, 1948. | Do |
| 1948 | XVIII | The Protective Duties Continuation Act, 1948 ... ... | Do |
| 1948 | XIX | The Indian Tea Control (Amendment) Act, 1948 ... | Do |
| 1948 | XXI | The Indian Railways (Amendment) Act, 1948 ... ... | Do |
| 1948 | XXIII | The Taxation on Income (Investigation Commission) (Amendment) Act, 1948. | Do |
| 1948 | XXIV | The Indian Aircraft (Amendment) Act, 1948 ... ... | Do |
| 1948 | XXV | The Provincial Insolvency (Amendment) Act, 1948 ... | Do |
| 1948 | XXVII | The Control of Shipping (Amendment) Act, 1948 ... | Do |
| 1948 | XXVIII | The Delhi and Ajmer-Merwara Rent Control (Amendment) Act, 1948. | Do |
| 1948 | XXX | The Indian Lac Cess (Amendment) Act, 1948 ... | Do |
| 1948 | XXXIII | The Calcutta Port (Pilotage) Act, 1948 ... | Section 11. |
| 1948 | XXXVI | The Bombay, Calcutta and Madras Port Trusts (Constitution) (Amendment) Act, 1948. | The whole |
| 1948 | XXXIX | The Indian Registration (Amendment) Act, 1948 ... | Do |
| 1948 | XLII | The Indian Merchant Shipping (Amendment) Act, 1948 ... | Do |
| 1948 | XLIII | The Indian Army (Amendment) Act, 1948 ... | Do |
| 1948 | XLIV | The Durgah Khawaja Saheb (Amendment) Act, 1948 ... | Do |
| 1948 | XLV | The Indian Telegraph (Amendment) Act, 1948 ... | Do |
| 1948 | XLIX | The Taxation on Income (Investigation Commission) (Second Amendment) Act, 1948. | Do |
| 1948 | L | The Cantonments (Amendment) Act, 1948 ... | Do |
| 1848 | LV | The Indian Income-tax (Amendment) Act, 1948 ... | Do |
| 1948 | LVI | The Territorial Army Act, 1948 ... | Section 15 |
| 1948 | LVII | The Indian Navy (Dicipline) Amendment Act, 1948 ... | The whole |
| 1948 | LIX | The Indian Cotton Cess (Amendment) Act, 1948 ... | Do |
| 1948 | LXII | The Reserve Bank (Transfer to Public Ownership) Act, 1948) ... | Section 7 and Schedule. |
| 1948 | LXIII | The Factories Act, 1948 ... ... | Section 119 and the Table of Enactments repealed. |
| 1948 | LXIV | The Essential Supplies (Temporary Powers) (Amendment) Act, 1948. | The whole |
| 1948 | LXV | The Indian Railways (Second Amendment) Act, 1948 ... | Do |
| | | *Ordinances made by the Governor-General.* | |
| 1944 | III | The Restriction and Detention Ordinance, 1944 ... | Do |
| 1944 | XXX | The Army (Provision for Dependants) Ordinance, 1944 ... | Do |
| 1945 | XL | The Army (Forfeiture of Emoluments) Ordinance, 1945 ... | Do |
| 1946 | I | The Repealing Ordinance, 1946 ... ... | Do |
| 1946 | VII | The Criminal Law (1943 Amendment) Amending Ordinance, 1946. | Do |
| 1946 | VIII | The Allied Forces (China) Ordinance, 1946 ... | Do |
| 1946 | IX | The National Service (Technical Personnel) Amendment Ordinance, 1946. | Do |
| 1946 | XIII | The Army (Forfeiture of Emoluments) Amendment Ordinance, 1946. | Do |

# THE SECOND SCHEDULE.

*Amendments*

(*See* Section 3).

| Year 1 | No. 2 | Short title 3 | Amendments 4 |
|---|---|---|---|
| | | *Acts of the Central Legislature.* | |
| 1860 | XLV | The Indian Penal Code... | In the Explanation to section 489A for the figures, letters and word "489C and 489D" the figures, letters and word "489C, 489D and 489E", shall be substituted. |
| 1867 | XXV | The Press and Registration of Books Act, 1867. | In the preamble, for the words "periodicals containing news", the word "newspapers" shall be substituted. |
| 1878 | XI | The Indian Arms Act, 1878. | In clause (i) of section 19, the words and figures "section 14 or" shall be omitted. |
| 1897 | V | The Amending Act, 1897 ... | In the third Schedule, the entry relating to Act XII of 1874 shall be omitted. |
| 1898 | V | The Code of Criminal Procedue 1898. | In Schedule II, in the second column, in the entry relating to section 222, for the words "transportation or transportation" the words "transportation or" shall be substituted. |
| 1908 | XV | The Indian Ports Act, 1908. | In clause (c) of section 48, for the words "any port within the territories administered by the Governor of Fort Saint George in Council", the words "any port in the State of Madras or the port of Gopalpur in the State of Orissa" shall be substituted. |
| 1925 | XIX | The Provident Funds Act, 1925. | In sub-section (2) of section 5, for the words and figures "the Succession Certificate Act, 1889", the words and figures "the Indian Succession Act, 1925" shall be substituted. |
| 1939 | XXX | The Commercial Documents Evidence Act, 1939. | In item 7 of Part I of the Schedule, for the words "British India Load Line Certificate", the words "Indian Load Line Certificate" shall be substituted. |
| 1947 | XIV | The Industrial Disputes Act, 1947. | In the proviso to sub-section (2) of section 15, after the words "the House of the People", where they occur last, the word "may" shall be inserted. |
| 1949 | XXV | The Displaced Persons (Legal Proceedings) Act, 1949. | In section 7, for the words and figures "Order XXI of the Code of Civil Procedure", the words and figures "Order XXI of the First Schedule to the Code of Civil Procedure" shall be substituted. |
| | | *Act of the Madras Legislature.* | |
| 1886 | IV | The Railway Protection Act, 1886. | In section 1, for the words "It extends to the territories administered by the Governor in Council of Fort St. George", the words "It extends to the whole of the State of Madras" shall be substituted. |

## NOTIFICATION.

No.L. D. 830—Legis. 2-50-11, dated Bangalore, 26th April 1950.

Ordered that the accompanying Nawab Salar Jung Bahadur (Administration of Assets) Act, 1950 (XXXVI of 1950) published in the Gazette of India, dated the 21st April 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Legal Remembrancer and Secretary to Government, Law Department.*

Received Assent on 19th April 1950.

## Act 1950 (XXXVI of 1950.)

# THE NAWAB SALAR JUNG BAHADUR (ADMINISTRATION OF ASSETS)

AN

## ACT

*to provide for the administration of the assets of the late Nawab Salar Jung Bahadur of Hyderabad and for matters connected therewith.*

BE it enacted by Parliament as follows:—

1. *Short title and extent.*—(1) This Act may be called the Nawab Salar Jung Bahadur (Administration of Assets) Act, 1950.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2 *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "assets" means all the items of property of the Nawab specified in the Schedule, and includes any other item of property added to the Schedule by notification under section 7;

(b) "Committee" means the Salar Jung Estate Committee appointed for the purpose of administering the estate of the Nawab under the Salar Jung Estate (Administration) Regulation (No. XXXIV of 1358F) of Hyderabad;

(c) "the Nawab" means Nawab Salar Jung Bahadur of Hyderabad who deid on the 2nd day of March, 1949; and

(d) "Schedule" means the Schedule to this Act.

3. *Vesting of assets in Committee.*—All the assets of the Nawab shall vest in the Committee and shall be administered by the Committee subject to the control of the Central Government.

4. *Powers of Committee.*—(*1*) Subject to any rules that may be made in this behalf, the Committee may take such measures as it considers necessary or expedient for the purposes of administering and managing the assets which have vested in it and may for any such purpose do all acts and incur all expenditure necessary or incidental thereto.

(2) Without prejudice to the generality of the powers given to it by sub section (*1*), the Committee may, for any of the purposes aforesaid,—

(*a*) operate on any account standing in the name of the Nawab in any banking company;

(*b*) take such action as may be necessary for the recovery of any debt due to the Nawab;

(*c*) transfer in any manner whatsoever the assets or any part thereof;

(*d*) invest or re-invest any assets in such security as the Committee may think fit.

(3) The Committee may for the more convenient exercise of any of its powers, authorise, by resolution, any of its members to act on behalf of the Committee in respect of such matters as may be specified.

5. *Payment to Committee to be valid discharge.*—(*1*) Any payment made to the Committee in the discharge of any obligation in relation to any asset shall be a full and valid discharge to the person making the payment from all liability in respect thereof.

(2) Any payment made otherwise than in accordance with sub-section (*1*) shall not be deemed to discharge the person paying it from his obligation to make the payment and shall not affect the right of the Committee to enforce such obligation against that person.

6. *Transfers otherwise than by Committee or without its consent void.*—(*1*) Any transfer or other disposition of any asset made by any person after the 2nd day of March, 1949, and before the 12th day of November, 1949, shall be void and shall be deemed always to have been void unless confirmed by the Committee.

(2) Any transfer or other disposition of any asset purporting to be made by any person other than the Committee after the 12th day of November, 1949, shall be void and of no effect, and, notwithstanding anything contained in any law for the time being in force, the asset shall be deemed to be and always to have been vested in the Committee.

7. *Power to add to Schedule.*—The Central Government may, by notification in the Official Gazette, add to the items of property in the Schedule any other item which in its opinion represents property belonging to the Nawab, and on the issue of such notification, any property so added, shall be deemed always to have been included in the Schedule for the purposes of this Act.

8. *Bar of jurisdiction.*—No suit or other legal proceeding for the enforcement of any right or remedy in respect of any asset shall be instituted in any court by any person other than the Committee save with the previous consent of the Central Government.

9. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the Committee for anything which is in good faith done or intended to be done in pursuance of this Act.

10. *Power to make rules.*—The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act, and in particular, for the effective exercise of the powers vested in the Committee under this Act.

11. *Repeal of Ordinance XXIX of* 1949.—(*1*) The Nawab Salar Jung Bahadur (Administration of Assets) Ordinance, 1949 (XXIX of 1949), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act, were in force on the day on which such thing was done or action was taken.

## SCHEDULE.

(*See* Section 2).

### ASSETS OF THE LATE NAWAB SALAR JUNG BAHADUR SHARES.

| Item No. | Description of Property | No. of shares | Amount | In whose custody | Remarks |
|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | Rs. | | |
| 1 | Government Promissory Notes, 1896-97. | 4 | 12,000 | Imperial Bank of India, Hyderabad (Deccan). | |
| 2 | The Tata Hydro-Electric Power Supply Co., Ltd. (Bombay). | 180 Ordinary | 18,000 | Do | |
| 3 | The Tata Hydro-Electric Power Supply Co., Ltd. (Bombay). | 500 7 per cent Preference. | 50,000 | Do | |
| 4 | The Andhra Valley Power Supply Co., Ltd. (Bombay). | 50 Ordinary. | 50,000 | Do | |
| 5 | The Tata Power Co., Ltd. (Bombay). | 110 Ordinary. | 1,10,000 | Do | |
| 6 | Do do ... | 100 7 per cent, Preference. | 1,00,000 | Do | |
| 7 | The Tata Iron and Steel Co., Ltd. (Bombay). | 300 7½ per cent, Second Preference. | 30,000 | Do | |
| 8 | The Indian Iron and Steel Co., Ltd. (Calcutta). | 1,500 Ordinary. | 15,000 | Do | |
| 9 | The Associated Cement Companies, Ltd. (Bombay). | 19,209 Ordinary. | 19,20,900 | 18,583 shares in the custody of the Central Bank of India, Ltd. (Bombay). | Pledged as security against overdraft |
| 10 | Do do ... | ... | ... | 626 shares in the custody of the Imperial Bank of India, Hyderabad (Deccan). | |
| 11 | The British India Corporation, Ltd. (Calcutta). | 10,067 Ordinary. | 50,335 | Imperial Bank of India, Hyderabad (Deccan). | |
| 12 | Spencer & Co., Ltd. (Madras). | 860 Ordinary. | 8,600 | Do | |
| 13 | Spencer & Co., Ltd. (Madras). | 10,012 6½ per cent 'A' Preference. | 1,00,120 | Do | |
| 14 | Spencer & Co., Ltd. (Madras). | 4,248 8 per cent, 'B' Preference. | 42,480 | Imperial Bank of India, Hyderabad (Deccan). | |
| 15 | P. Orr & Sons, Ltd. (Madras). | 250 6 per cent, Preference. | 25,000 | Do | |
| 16 | Powells, Ltd. (Bombay)... | 200 | 5,000 | Do | |
| 17 | The Buckingham and Carnatic Co., Ltd. (Madras). | 650 Ordinary. | 65,000 | Do | |
| 18 | Young India Cotton Mills, Ltd. (Calcutta). | 200 Ordinary. | 5,000 | Do | |

| Item No. | Description of Property | No. of shares | Amount | In whose custody | Remarks |
|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | Rs. | | |
| 19 | Imperial Bank of India (Bombay Reg.). | 155 Fully paid. | 77,500 | Central Bank of India, Ltd., Bombay. | Pledged as security against overdraft. |
| 20 | Do do ... | 560 Contributory | 70,000 | Do | Do |
| 21 | Imperial Bank of India (Calcutta Reg.). | 7 Fully paid. | 3,500 | Do | Do |
| 22 | Do do ... | 14 Contributory | 1,750 | Do | Do |
| 23 | The Central Bank of India, Ltd. (Bombay). | 1,500 Rs. 25 paid up. | 37,500 | Imperial Bank of India, Hyderabad (Deccan). | |
| 24 | Do do ... | 300 'A, | 7,500 | Do | |
| 25 | Jupiter General Insurance Co., Ltd. (Bombay). | 750 6½ per cent Preference. | 7,500 | Do | |
| 26 | Do do ... | 100 Ordinary. | 1,500 | Do | |
| 27 | The Madras Swadeshi Emporium, Ltd. (Madras). | 500 | 5,000 | Do | |
| 28 | The Vulcan Insurance Co., Ltd. (Bombay). | 1,600 | 16,000 | Do | |
| 29 | The Bombay Electric Supply and Tramways Co., Ltd. (In voluntary liquidation). | 265 Ordinary. | 13,250 | Do | |
| 30 | The Industrial and Prudential Assurance Co., Ltd. (Bombay). | 300 Ordinary. | 1,800 | Do | |
| 31 | The Deccan Tobacco Works, Ltd. (Poona). | 200 Ordinary. | 8,000 | Do | |

## LIFE INSURANCE POLICIES

| Item No. | Name of company | Policy No | Amount | In whose custody | Remarks |
|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | Rs. | | |
| 32 | The Prudential Assurance Co., Ltd. | 3600081 | 1,00,000 | With Company. | |
| 33 | The Gresham Life Assurance Society, Ltd | 784360 | 2,75,000 | Do | |
| 34 | The Bombay Life Assurance Co., Ltd. | 42537 | 2,00,000 | Do | |
| 35 | The North British and Mercantile Insurance Co., Ltd. (Calcutta). | 09927-P | £2,000 | Do | |
| 36 | The Hindustan Co-operative Insurance Society, Ltd. | 109450 | 50,000 | Do | |
| 37 | Allianz and Stuttgarter Life Insurance Bank, Ltd., (New Delhi). | HZ-5994 | 10,000 | ... | Deducted under instructions from the Government of India, on policy which matured in 1948. |

## BANK DEPOSIT

| Item No. | Description of property | Amount | Remarks |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| 38 | Current Account with Imperial Bank of India (Bombay). | Rs. A. P.<br>95,625 2 8 | (As at 30-4-1949). |

## BUILDINGS

| Item No. | Description of property | In whose custody | Remarks |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| 39 | House in Ootacamund "Woodcock Hall." | Salar Jung Estate Committee. | |
| 40 | House in Poona "Gladhurst" | Do | |

K. V. K. SUNDARAM, *Secy.*

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# PART IV

## Section 1-C

## NOTIFICATIONS, RULES, ORDERS, ETC., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

### NOTIFICATION.

No. L.D. 359—Legis. 6-50-1, dated Bangalore, 28th April 1950.

Ordered that the accompanying Notification No. 11/E, dated 1st April 1950 of the Ministry of Defence, under the Indian Army Act, 1911, published in the *Gazette of India*, dated the 1st April 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja

B. S. PUTTASWAMY,

*Legal Remembrancer and Secretary to Government, Law Department.*

## MINISTRY OF DEFENCE.

### NOTIFICATION.

*New Delhi, the 1st April* 1950.

*No. 11/E.*—In exercise of the powers conferred by Section 5 of the Indian Army Act, 1911 (VIII of 1911), the Central Government is pleased—

I. to apply the said Act to the Forces raised and maintained by the States of Hyderabad, Mysore and Travancore-Cochin, with the following modifications, namely,

1. In Section 7,—

(*a*) in clause (2), the words "and also includes an officer of the State Forces" shall be added;

(*b*) in clause (2A), the words "and includes a Junior Commissioned Officer of the State Forces" shall be added;

(*c*) in clause (3), the words "and includes a warrant officer of the State Forces" shall be added;

(*d*) in clause (4), the words "and also a non-commissioned officer or an acting non-commissioned officer of the State Forces" shall be added;

(*e*) in clauses (17) and (18), for the words "a Part A State or a Part C State", the words "the State" shall be substituted;

(*f*) after clause (21), the following clause shall be inserted, namely:—

"(21A) 'State' means the State of Hyderabad, Mysore or Travancore-Cochin, as the case may be, and the expression 'State Forces' shall be construed accordingly."

2. In Section 41, the *Explanation* to sub-section (*1*) shall be omitted.

3. In Section 85, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) When the witness resides in any place outside the State, the commission may be issued to any officer specified in this behalf by the Central Government."

4. In Section 111A—

(*a*) the words "whether the trial was held within a Part A State or a Part C State or elsewhere" shall be omitted; and

(*b*) for the words "in a Part A State or a Part C State" the words "in India" shall be substituted.

5. In Section 111B, for the words "in a Part A State", the words "in the State" shall be substituted.

6. In Section 126B, the words "whether the trial was held within a Part A State or a Part C State or elsewhere" shall be omitted and for the words "Presidency town or district of a Part A State or Part C State" the words "district of the State" shall be substituted.

II. to direct that while the provisions of the said Act, as modified above, are applicable to the State Forces, the operation of the provisions of any other law for the time being applicable to such forces shall be suspended.

H. M. PATEL, *Secy.*

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